

Legitimacy of the Maltese Financial Services Regulator

Institute of Criminology
University of Cambridge

Matthew Muscat

This dissertation is submitted for the degree of Doctor of Philosophy

Supervisor: Dr. Justice Tankebe

St. Catharine's College
September 2019

Declaration

This thesis is the result of my own work and includes nothing which is the outcome of work done in collaboration except as declared in the Preface and specified in the text.

It is not substantially the same as any that I have submitted, or, is being concurrently submitted for a degree or diploma or other qualification at the University of Cambridge or any other University or similar institution except as declared in the Preface and specified in the text. I further state that no substantial part of my dissertation has already been submitted, or, is being concurrently submitted for any such degree, diploma or other qualification at the University of Cambridge or any other University or similar institution except as declared in the Preface and specified in the text.

It does not exceed the prescribed word limit for the relevant Degree Committee.

Abstract

Legitimacy of the Maltese Financial Services Regulator

This dissertation sought to investigate two interrelated issues: first, to explore the ‘basic legitimisation demands’ of operators in the Maltese financial services sector; second, and arising from the first, to explore the influence of legitimacy perceptions on the behaviour of operators. Legitimacy – the recognition of power as morally valid – is an important topic to researchers across many disciplines and to policy makers. Unlike other disciplines, criminology has been a latecomer to legitimacy research, with Tom Tyler’s *Why People Obey the Law* being the watershed moment. Evidence in criminology shows legitimacy perceptions correlate with actual or intended compliance with laws and cooperation with legal authorities.

However, a number of criticisms have arisen including how best to conceptualise and operationalise legitimacy. Some have argued that while criminologists theorise legitimacy as a social-scientific concept, their empirical analysis has not reflected this theorisation. Legitimacy scales are developed in ways that do not fully reflect the socially constitutive nature of legitimacy. Drawing on methodological insights from prisons research, this dissertation attempts to address this gap in the wider criminology literature. It does so in the context of the Maltese financial services regulator. In focusing on the Maltese financial services regulator, the dissertation also promises contributions to fields beyond criminology – for example, in sociology, management and organisational studies, and political science.

How do operators in the Maltese financial services sector construct the legitimacy of the regulator? What basic legitimisation demands do they make of the regulator? How do their views about the legitimacy of the regulator influence their self-reported behaviour and intentions toward the regulations? A mixed-methods research design was used to answer these questions. A qualitative component involved interviews with 49 Maltese financial services participants to discover what mattered to operators licensed by the Malta Financial Services Authority (MFSA) and why. Based on the interview data, a regulatory legitimacy scale was developed and tested among a sample of 226 Maltese financial services operators. Confirmatory factor analysis identified a three-factor legitimacy model comprising rule of law, distributive fairness and responsiveness. Further analysis showed that perceived legitimacy of MFSA was strongly correlated with positive attitudes to compliance.

Matthew Muscat

To my family

Acknowledgements

I owe an enormous debt of gratitude to my supervisor Dr. Justice Tankebe for his unwavering support, invaluable guidance and extraordinary encouragement at all times.

I also owe much to Professor Sir Anthony Bottoms for his inspirational mentoring during my studies.

I wish to thank my friends in Cambridge (Aastha, Aiden, Bethany, Borah, Cristobal, Dev, Emanuel, Manuela, Menaal, Nico, Olga, Julie, Samuel, Sara, Stuart, Rachel, Rodrigo, Victor and Vincent) and in Malta (Daniel B., Daniel C., Francis, James, Jeffrey and Miguel) for helping me through the PhD journey.

I also wish to thank the individuals in Malta who helped me gain access to financial services participants.

Finally, a special mention goes to my Dad and my Sister who have always been there for me.

Table of Contents

<i>Declaration</i>	i
<i>Abstract</i>	ii
<i>Acknowledgements</i>	iv
Introduction	1
1. Defining, Conceptualizing and Measuring Regulatory Legitimacy	8
1.0 Preliminary note	8
1.1 Legitimacy in criminology	8
1.2 Legitimacy in organizational studies	15
1.3 Legitimacy in regulatory studies	17
1.4 Defining legitimacy in the Maltese regulatory context	22
1.5 Conceptualizing and measuring regulatory legitimacy	23
2. Normative Compliance versus Instrumental Compliance	28
2.0 Preliminary	28
2.1 Deterrence and corporate crime	32
2.2 Legitimacy and audience behaviours	34
3. Research Context	44
3.1 Description of context	44
3.2 The Malta Financial Services Authority	45
3.3 Political and regulatory challenges	48
3.3.1 Political and regulatory challenges in the qualitative stage	48
3.3.2 Political and regulatory challenges in the quantitative stage	49
4. Research Methods	52
4.1 Qualitative Stage	52
4.1.1 Appreciative Inquiry interviews	52
4.1.2 Piloting the Interview Schedule	54
4.1.3 Getting in	55
4.1.3.1 Sampling	55
4.1.3.2 Contacting participants	61
4.1.4 Getting the data	64
4.1.4.1 Location of the interview and seating arrangements	64
4.1.4.2 Developing rapport and gaining trust	67
4.1.4.3 Power dynamics	74
4.1.5 Getting out: analysing the data	80
4.2 Quantitative phase	86
4.2.1 Survey development	87
4.2.2 Pretesting the survey	91

4.2.3	Administering the survey and sampling procedures	91
4.2.4	Statistical analysis	94
5.	Reconceptualizing and Measuring Legitimacy: Providing a Theoretical Grounding to Developing a Survey on Legitimacy	99
5.0	Preliminary	99
5.1	Research findings	99
5.1.1	Lawfulness	101
5.1.2	Procedural justice	107
5.1.3	Distributive fairness	132
5.1.4	Effectiveness	139
6.	Legitimacy of Financial Regulators: Scale Development and Validation	146
6.0	Preliminary	146
6.1	PCA	146
6.2	Confirmatory Factor Analysis	151
7.	The Roles of Legitimacy and Deterrence in explaining Compliance with Regulations	166
7.0	Preliminary	166
7.1	Measures	167
7.2	Findings	168
	7.2.1 Bivariate correlations	168
	7.2.2 OLS regressions	169
8.	Conclusion	173
	<i>References</i>	200
	<i>List of Tables</i>	
Table 1	Legitimacy and rule following actions	40
Table 2	Legitimacy dimensions in survey	90
Table 3	Themes derived inductively from the interviews	100
Table 4	Principal components analysis of items in questionnaire	148
Table 5	Reliability analysis of the five dimensions	151
Table 6	Five-Factor goodness-of-fit statistics	153
Table 7	Five-factor model reliability, convergent and discriminant validity statistics	155
Table 8	Comparison of items in five-factor, four-factor and three-factor models	160
Table 9	Goodness-of-fit statistics for BLD five-factor, four-factor and three-factor models	163
Table 10	Four-factor model reliability, convergent and discriminant validity statistics	164
Table 11	Three-factor model reliability, convergent and discriminant validity statistics	165

Table 12	Bivariate correlation between key research variables	169
Table 13	Legitimacy, deterrence and positive attitudes to compliance	171
Table 14	Legitimacy, deterrence, obligation to obey and positive attitudes to compliance	172

List of figures

Figure 1	BLD Five Factor Model	154
Figure 2	BLD Four Factor Model	158
Figure 3	BLD Three Factor Model	159

Appendices

Appendix 1	Conceptualizations of legitimacy in criminology	232
Appendix 2	Qualitative stage: interview schedule, note to participants, participant information sheet and informed consent form	273
Appendix 3	List of interviewees	280
Appendix 4	Legitimacy dimensions, obligation to obey, motivational postures and deterrence questions	284
Appendix 5	Quantitative stage: email sent to participants and basic legitimization demands survey	289
Appendix 6	Motivational postures scales, obligation to obey scale and key correlations	320
Appendix 7	Summary Statistics for items	322

Introduction

The financial crisis of 2007-2009 resulted in the collapse of major financial institutions, leading to untold damage worldwide and deleterious effects that still reverberate today, particularly in Europe (“Ten years on; international banking”, 2017). Globally, more than US\$20 trillion in wealth was lost and approximately 20 million workers lost their jobs (Barak, 2013). In the United States of America (USA) alone, more than four million homeowners faced legal foreclosures, with retail investors bearing the brunt of the losses (amounting to approximately US\$9.8 trillion) and costing taxpayers US\$700 billion in TARP bailout funds (Barak, 2013 Kaissar, 2018; Lybeck, 2011; Merle, 2018). Similar effects were felt on the other side of the Atlantic. In Europe, several financial institutions reported billions of euros in losses, prompting the European Union (EU) to agree to a range of financial remedies and bailouts aimed at strengthening economic growth and a number of European governments introducing strict austerity measures (Ryder, 2014; Tooze, 2018).

The regulatory and enforcement response to the crisis emphasised deterrence strategies. Regulators imposed cumulative fines on banks worldwide to the tune of US\$321 billion (Grasshoff et al., 2017). Forty-seven bankers in seven countries (Iceland, Spain, Ireland, Cyprus, Germany, Italy and the USA) were also imprisoned for their role in the crisis and for engaging in a range of offences including fraud, insider trading, market manipulation, misappropriation, falsification of accounts and conspiracy to commit fraud, dispelling commonly held notions that no natural person would be found responsible for the crisis (Noonan et al., 2018). Regulations imposed on financial entities skyrocketed (with Grasshoff et al., (2017) estimating an average of 200 revisions per day). Moreover, close supervision of financial institutions replaced light-touch-regulation (“Ten years on; international banking”, 2017). Despite the dominant role played by avaricious bankers in precipitating the crisis, regulators could have done more to prevent the damage and thus they too share responsibility (“Crash course: the origins of the financial crisis”, 2013). For instance, regulators allowed Lehman Brothers to become insolvent, fuelling panic and leading to a loss of trust in the market further stifling lending as a result (“Crash course: the origins of the financial crisis”, 2013). In an internal report, the United Kingdom’s (UK) Financial Services Authority admitted that regulatory errors existed in the supervision of Northern Rock (Clayton, 2010). This report identified poor internal communication and inconsistent enforcement of rules as

regulatory failings that contributed to red flags going undetected, leading to this bank's decline (Armour et al., 2016).

Apart from the contemptible conduct of bankers during the financial crisis, a raft of other scandals shook the financial services sector. These scandals have also been met with regulatory responses that emphasised deterrence as a strategy to control corporate wrongdoing. The Payment Protection Insurance (PPI) scandal, which had its roots in the 1990s and was described by Megaw (2019:6) as “the UK's largest consumer mis-selling scandal”, has cost UK banks more than £36 billion since January 2011. London Interbank Offered Rate (LIBOR) manipulation led to a combined fine of £680m being imposed on Barclays and the Royal Bank of Scotland. Breaches of money laundering regulations by HSBC Bank resulted in a fine of US\$2 billion (Tombs and Whyte, 2015). In these cases, a lack of effective supervision and wilful blindness on the side of UK and United States (US) regulators were also cited as factors that contributed to the egregious misconduct committed by regulated financial entities and individuals involved therein (Doane, 2012; Huang, 2015; National Audit Office, 2016; Stewart, 2018). The unlawful conduct of regulated companies and their employees, the contributory regulatory failings, the complexity of financial services regulation and the reliance on deterrence all underscore the importance of regulatory legitimacy as a mechanism for engendering voluntary compliance and cooperation with regulatory authorities (Bottoms, 2019). To the extent that authority is acknowledged as rightful, individuals (and companies) will feel a need to comply with the regulation and cooperate with the financial authority without being coerced to do so (Beetham, 1991). Legitimacy is an important consideration for regulatory compliance and cooperation because regulation involves the imposition of rules by governments or regulatory authorities backed by the use of sanctions that are intended to modify the behaviour of regulatees and the individuals therein (Organisation for Economic Co-operation and Development (OECD), 2002). If regulatees do not recognize the legitimacy of regulatory authorities, the deterrent effect of those sanctions might have little effect or result in defiance (Simpson, 2002). This argument takes on added importance in the European regulatory context. Arguments have been raised in competition cases that the imposition of substantial administrative fines on regulatees without recourse to a court hearing infringes article 6(1) of the European Convention on Human Rights (the right to a fair hearing) because the fine is criminal in nature (*A. Menarini Diagnostics S.R.L. v. Italy*; *Schindler Holding v. European Commission*). Criminology has been a relative latecomer to legitimacy research, with Tom Tyler's *Why*

People Obey the Law representing the watershed moment. Evidence in criminology shows that perceptions of legitimacy correlate with actual or intended compliance with laws and cooperation with legal authorities. However, this link has been questioned on a number of grounds, including the conceptualization and operationalization of legitimacy. In criminology the failure to adequately conceptualize legitimacy has given rise to measurement errors due to a failure to differentiate between normative and empirical concepts of legitimacy (Tankebe, 2014). Moral philosophers adopt a normative concept of legitimacy by utilising a set of “objective” criteria to examine legitimacy (Hinsch, 2010). In terms of a normative concept of legitimacy, the philosopher uses his or her own criteria to assess the legitimacy of a particular legal authority. In contrast, social scientists adopt the empirical concept of legitimacy in which they consider an institutional arrangement to be legitimate if, as a *matter of fact*, it gains the approval of those who are subject to the arrangement (Hinsch, 2010). In effect, social scientists consider a legal authority legitimate if its audience or audiences deem the legal authority legitimate even if it does not meet their own criteria as to what makes a legal authority legitimate. Drawing on Tankebe (2014), I argue that all empirical studies in criminology – apart from Liebling’s (2004) study on the quality of prison life – fail to adequately measure legitimacy as they adopt a normative approach by determining *a priori* and imposing legitimacy criteria in particular contexts. Tankebe (2014) has reasoned that in order to develop valid measures, criminologists ought to employ the two-stage social scientific approach that Liebling (2004) used in her research on the quality of prison life. The first stage is inductive and involves interviews or focus groups with audiences to discover what legitimacy means to them and why. The second stage is deductive and involves constructing and distributing a survey to the group under study that is grounded in the interviews and the focus groups and with a view to developing scales through exploratory and confirmatory factor analysis.

This dissertation explores Tankebe’s proposition in the financial regulatory context, specifically focusing on the legitimacy of the Maltese financial regulator – the Malta Financial Services Authority (MFSA). The legitimacy of the MFSA as perceived by one of its main audiences – licensed operators – was selected for general and specific reasons. First, MFSA licensed operators are in Beetham’s (2013:19) terms the “relevant agents ... subject to the power” of the MFSA. In their quest to build legitimacy, regulators may sometimes need to address multiple audiences or agents simultaneously with each audience having potentially different and conflicting expectations or demands (Bottoms and Tankebe, 2012; Liebling, 2002). For the MFSA, licensed operators and consumers of financial services (or the general

public) are the main audiences. The former are those “subject to the power” while the latter are, in Beetham’s (2013:19) language, “third parties whose support or recognition may help to confirm [MFSA’s claim to legitimate power]”. This is because in terms of article 4(1)(a) the MFSA Act, the regulator’s main objective is to regulate, monitor and supervise financial services in Malta. Although the MFSA is bound to act in the interests of other external stakeholders (such as consumers of financial services), this appears incidental to, or arising from, its main duty to regulating licensed operators. This argument is reinforced by examining structural changes within the MFSA. Before 2017, the MFSA housed the Consumer Complaints Unit which was charged with investigating complaints from private individuals relating to any financial services transaction, a function which has now been subsumed by the Arbiter for Financial Services. Second, Loader and Sparks (2013:109) argue that the term “audiences” refers “to those who have had direct experience” with powerholders. If that is correct, it is licensed operators, and not consumers of financial services, who have direct interactions with the MFSA. My third reason for choosing to focus on licensed operators is that financial crimes (such as insider trading and market manipulation) cause untold damage and are generally difficult to detect unless there is a smoking gun. Given the large number of regulated entities, it is impossible for the MFSA, to inspect and supervise the conduct of every single regulated entity (approximately 2000) as this would require costly expenditures of material and human resources which would be unsustainable and impractical (Wrong, 2004). Would it not be better if operators were to acknowledge the MFSA’s authority as legitimate? Indeed, instead of being coerced, they would then be willing to provide information to the financial regulator that may help to prevent the commission of financial crimes. The research evidence suggests that this can be achieved if operators regard the Authority as legitimate. This is an important consideration because in criminology, research on regulatory legitimacy and the crimes of the powerful is limited.

More specifically, recent cases have called into question the ability of the MFSA to effectively exercise its authority to prevent financial crimes. One such case was that of Maltese Cross Financial Services Limited (MCFSL), a Maltese company licensed by the MFSA to provide investment services in or from Malta. On 7 August 2014, the MFSA published an announcement that it had suspended the licence of MCFSL and revoked its approval for one of its directors, Mr Jean Claud Bugeja, to act as a director, compliance officer and money laundering reporting officer of the company. The MFSA also directed Mr

Bugeja to resign as a director of MCFSL, to desist from providing any financial services and not to access MCFSL's records, IT systems and offices. These regulatory actions were taken due to allegations of misuse and manipulation of clients' funds, resulting a loss of between €6 and €7 million. On 14 October 2014, it was reported that Mr Bugeja was to be indicted for misappropriation and fraud. Then on 28 October 2014, it was reported that MCFSL clients filed a judicial protest against the MFSA, holding the regulator responsible for the losses they had suffered. In particular, investors alleged that the MFSA was "grossly negligent, particularly in the period prior to August 2014" because the MFSA supervision of MCFSL appeared "to have been virtually inexistent" (Vella, 2014).

Other specific reasons for selecting the Maltese context as an example to address measurement issues in legitimacy revolve around access. The researcher is a Maltese national and a non-practicing lawyer who worked in the Maltese financial services sector for three years and interned with the MFSA in its Enforcement Unit for nine months. Accessing elites, including individuals in the top managerial and supervisory roles of financial services operators (comprising chairmen, managing directors and chief executive officers of banks, insurance and investment entities as well as senior partners of law firms and accounting or auditing firms that provide professional services to licensed operators) can be a cumbersome and frustrating process (Delaney, 2007). Although as corporate elites they are highly visible, they are not easily accessible (Thomas, 1995). Accessing corporate elites can be problematic for several reasons. They can, for example, be hard-to-reach because their gatekeepers (secretaries or security guards) deny researchers access; moreover, the researcher may be an outsider who lacks familiarity with the research context and the necessary network contacts to obtain access (Harvey, 2010; Jones, 2016; Lofland and Lofland, 1995; Nir, 2018; Neuman and Wiegand, 2004). From the researcher's own experience of working both in the Maltese financial services sector and with the regulator, it was clear that access to financial elites is privileged and reserved to those who have forged contacts in the industry. Owing to the researcher's familiarity with the Maltese financial services industry, it was believed that access to financial services elites would be easier if conducted in the Maltese context.

In order to comprehensively examine the relationship between legitimacy and rule-following behaviour, it was first necessary to conceptualize and measure legitimacy in a valid manner. To this end, the research sought to: (i) investigate the basic legitimization demands of, or what mattered to, licensed operators within the Maltese financial services sector and why; (ii) explore the scope for developing a regulatory legitimacy survey to measure scales of

licensed operators' legitimacy perceptions; and (iii) examine the relationship between the perceived regulatory legitimacy and compliance and cooperation. In order to accomplish these goals, a social scientific approach was employed in two stages. The first stage involved an inductive approach through the use of Appreciative Inquiry (AI) interviews. AI was employed to discover the Basic Legitimation Demands (BLDs) of financial market participants. The second stage of the research comprised a deductive approach, entailing the development and administration of a regulatory legitimacy survey informed by AI. The research design was therefore a two-stage process, beginning with a qualitative approach and followed by a quantitative approach. It must be emphasised that in seeking to address the first two research questions, the objective was not to corroborate any existing theoretical framework conceptualizing and measuring legitimacy but to use a grounded approach, similar to that employed by Liebling (2004), through which themes were distilled through the data.

This PhD is divided into eight chapters. The first chapter reviews criminological, organisational and regulatory studies that define, conceptualize and measure legitimacy. This chapter also defines legitimacy in the Maltese context and explains how legitimacy is conceptualized and measured in this dissertation. The second chapter reviews the literature on normative compliance and on instrumental compliance. Specifically, this chapters examines legitimacy and audience behaviours and the corporate crime deterrence literature. The third chapter describes the Maltese regulatory context and the regulatory challenges faced during fieldwork. The fourth chapter describes the research methods employed in this PhD. The fifth chapter reports the results of the qualitative phase and provides a theoretical grounding to developing the questionnaire measuring the perceived legitimacy of the financial regulator. The sixth chapter builds on the fifth chapter by using the results obtained from the interviews to construct and distribute a survey to licensed operators. In this chapter, the survey data are analysed using exploratory and confirmatory factor analyses to develop a three-dimensional model of MFSA legitimacy. This Chapter also subjects the three-dimensional model to reliability and validity tests in preparation for exploring its relationship with order. The seventh chapter builds on the sixth chapter and explores whether it is the perceived legitimacy of the MFSA (conceptualized and measured as a three-factor model) or deterrence that has the greatest impact on attitudes to compliance. This chapter also explores whether obligation to obey mediates the relationship between perceived MFSA legitimacy and attitudes to compliance. The eighth chapter offers an overall conclusion, discusses the study's

conclusions and limitations, provides some policy recommendations and puts forward future avenues for research.

1

Defining, Conceptualizing and Measuring Regulatory Legitimacy

“Since in empirical science everything depends on how fruitfully and faithfully thinking intertwines with the empirical world of study, and as concepts are the gateway to that world, the effective functioning of concepts is a matter of decisive importance.” (Blumer, 1954:5)

1.0 Preliminary note

In this Chapter I attempt to review the existing literature in criminology, organisational studies and regulatory studies that defines, conceptualizes and measures legitimacy. This is required to arrive at a definition of legitimacy to use in the Maltese financial regulatory context, to conceptualize and measure the legitimacy of the MFSA from the perspective of one of its main audiences (licensed operators).

1.1 Legitimacy in criminology

The concept of legitimacy has been described as “slippery”, “mushy” and “elusive” (Novick, 1968:192; Huntington, 1991:46; Zartman, 1985:134). In criminology, this ambiguity is palpable when considering the various ways in which legitimacy has been defined conceptualized and measured. Within criminology there are two broad ways of defining legitimacy. The first follows Tyler (2006a:376), who defined legitimacy as “the belief that authorities, institutions, and social arrangements are appropriate, proper, and just”. In this definition, based on Weber’s (1968) and Easton’s (1975) “belief in legitimacy”, Tyler emphasised that the legitimacy of legal authorities is important because “it leads [civilians] to feel personally obligated to defer to those authorities, institutions, and social arrangements”. Accordingly, studies following the broad Tylerian definition of legitimacy generally tend to define legitimacy in terms of an “obligation to obey”. The second broad way of defining legitimacy follows Beetham (1991:x) and Coicaud (2002:10) who respectively defined legitimacy as “power which is acknowledged as rightful” and as “the recognition of the right to govern”. Beetham (1991:20) viewed legitimacy as providing “moral grounds” for compliance and cooperation. Similarly, as Bottoms and Tankebe (2012:125) observed in relation to Coicaud’s definition, “legitimacy is seen as the ‘recognition of the right to govern’

within a structured bilateral (or multilateral) relationship, and if successfully established it simultaneously justifies the actions of both the power-holder and the obedient subject”. Unlike the Tylerian definition of legitimacy, which integrates notions of obligation to obey, Beetham’s and Coicaud’s definitions do not incorporate aspects of obligation to obey or compliance or cooperation, even though these are incidental to or follow from legitimacy.

These definitions have been instrumental in conceptualizing and measuring legitimacy in criminology. In criminology, there are three broad ways of measuring and operationalizing the concept of legitimacy. These are: (i) the Tylerian inspired conceptualizations of legitimacy; (ii) Jackson and colleagues’ (2011; see also Hough, Jackson and Bradford’s (2013)) three-dimensional conceptualizations of legitimacy and Jackson et al.’s (2012) two-dimensional conceptualization of legitimacy; and (iii) the Bottoms and Tankebe (2012) four-dimensional conceptualization of legitimacy. Appendix 1 presents the studies inspired by the Tylerian conceptualizations (see Table 1), the studies inspired by the Jackson et al. (2011; 2012) and the Hough et al. (2013) frameworks (see Table 2) and the studies inspired by the Bottoms and Tankebe (2012) framework (see Table 3). All three conceptualizations of legitimacy seek to explain rule-following, albeit through different routes or pathways, as highlighted in Chapter 2. I shall return to these different conceptualizations shortly. For now, I wish to provide a brief review of the works of Weber, Easton, Beetham and Coicaud, as these are relevant to how criminologists have conceptualized and measured legitimacy.

A significant theme of Weber’s social and political thought is the “inevitable and eternal struggle” of “the rule of man over man” (Weber, 1978:269; Lassman, 2000:83). Weber defined “rule” as “the chance of having an order with a specific content obeyed by specifiable people” (Lassman, 2000:89). He argued that in order for the state to remain in existence (and for order to prevail) the ruled must obey the ruler (Lassman and Spiers, 2010). For Weber (1968:213) this necessitated cultivating the belief in its legitimacy. Weber, adapting Jellinek’s “empirical types”, proffered three grounds for legitimating any rule (Lassman, 2000:90). The first is “traditional-rule” characterized by custom and habit. The second is “charismatic-rule” emphasizing the importance of a ruler’s personal qualities. The third is “legal-rational rule” which underscores the belief in the validity of a legal statute and the appropriate juridical competence based on rationally devised rules (Lassman and Spiers, 2010).

Easton (1975:451) also wrote about a “belief in legitimacy” through the notion of diffuse support. For Easton, diffuse support had two separate dimensions: a belief in legitimacy, and trust. Similarly to Weber, Easton (1975:451) defined legitimacy in terms of an obligation to obey: “legitimacy is defined as the conviction ‘that it is right and proper ... to accept and obey the authorities and to abide by the requirements of the regime’”. This belief in legitimacy, in turn, had three different sources: (i) ideological legitimacy based on moral convictions; (ii) structural legitimacy which rests upon the belief in the validity of structure and norms; and (iii) personal legitimacy which lies in the personal qualities of the individual power-holder. To these sources of legitimacy, Easton (1975:451) added “commitment”, defined as “a willingness to maintain and defend the structures or norms of a regime even if they produce unfavourable consequences”.

Beetham (1991:x) and Coicaud (2002:10) defined legitimacy respectively as “power which is acknowledged as rightful by relevant agents” and as “the recognition of the right to govern.” Rather than emphasising a “belief in legitimacy” in a manner akin to Weber and Easton, Beetham and Coicaud considered a power-holder to have legitimacy if those subject to the power arrangement acknowledged the power relationship to be justified in terms of their beliefs. For Beetham (1991/2013) and Coicaud (2002) authority is legitimate if: (i) it conforms to established rules – lawfulness or legality; (ii) those rules can be justified by reference to shared values; and (iii) there is evidence of consent (or actions expressive of consent) by the audiences to the power-holder.¹

In his seminal study in Chicago, Tyler (1990:25) defined legitimacy as “an acceptance by people of the need to bring their behavior into line with the dictates of an external authority”. He then drew on Weber and Easton to conceptualize and measure legitimacy in terms of an obligation to obey and support. In another study conducted ten years later, Tyler and Huo (2002:101) adopted a definition similar to Tyler (1990): “legitimacy reflects people’s views about the degrees to which they feel a responsibility to support legal authorities and defer to their decisions”. They expanded Tyler’s (1990) original conceptualization of legitimacy to conceptualize and measure legitimacy not only in terms of an obligation to obey but by applying the conceptual frameworks of Easton and Ewick and

¹ The relationship between legitimacy and consent is complex. Among some political scientists and police researchers, consent is regarded as a *sine qua non* criterion for legitimate authority; hence, regarding the latter, ‘policing by consent’ is viewed as the moral foundation of British policing. However, some have expressed scepticism, arguing that consent presupposes the existence of a full-fledged legitimate structure able to define what actions qualify as consent and who might be qualified or not qualified to consent (see Buchanan 2002). What is clear from these discussions is that consent is strongly connected to the issue of legitimacy.

Silbey as institutional trust, affect and cynicism towards the law. As is evident from Table 1 in Appendix 1, several studies, mostly conducted in the policing context and carried out in a range of jurisdictions, have been inspired by Tyler's (1990) as well as Tyler and Huo's (2002) conceptualizations to measure legitimacy in a similar manner. Some of these studies tested full versions of Tyler's (2003; see also Sunshine and Tyler, 2003) process-based model of regulation in which legitimacy was treated as a mediating variable between procedural fairness and rule-following behaviour. Other studies, while adopting a Tylerian-inspired conceptualizations and measurements of legitimacy, treat legitimacy as an independent variable affecting rule-following behaviour, or a dependent variable affected by *inter alia* procedural justice considerations (see Table 1 in Appendix 1).

Despite the empirical status of the Tylerian conceptualization of legitimacy, limitations exist as to how Tyler and other researchers have measured it. In their dialogic approach to legitimacy, Bottoms and Tankebe (2012) disagreed with Tyler's conceptualization and operationalization of legitimacy as obligation to obey and trust. Regarding trust, Bottoms and Tankebe (2012) observed that although legitimacy and trust are empirically similar they are conceptually different and should not be confused with one another because while legitimacy concentrates on the present – that is, it is concerned with what makes authority rightful here and now – trust is focused on the future. Bottoms and Tankebe (2012; see also Tankebe (2013) also cited Barbalet (2009) and Kaina (2008) respectively who argued that if trust is confused with legitimacy, it obstructs a proper account of trust. Regarding the perceived obligation to obey, Bottoms and Tankebe (2012) argued that legitimacy should not be equated with an obligation to obey because individuals may feel an obligation to obey the law for reasons other than legitimacy, such as instrumental reasons or dull compulsion. Empirical research supports these philosophical arguments. Using a sample of 210 students at a large university in Southern California, Gau (2011) conducted a confirmatory factor analysis on items measuring obligation to obey and trust, finding that the sub-scale of obligation to obey displayed low factor loadings and did not converge with trust to form the latent construct of legitimacy. In a subsequent study using a sample of 284 residents in a mid-sized city in Florida, Gau (2014) also found that the statements measuring an obligation to obey presented low factor loadings and did not converge with trust to form the dimension of legitimacy. This study buttressed the results of the first study and corroborated earlier research that implied that the items measuring obligation to obey negatively affected the latent construct of legitimacy (Reisig, Bratton and Gertz, 2007; Tyler,

2006b; Tyler and Huo, 2002). Research conducted by Johnson et al. (2014) reinforced these earlier findings by demonstrating that obligation to obey is empirically distinct from other components of legitimacy, namely trust and cynicism towards the law. Furthermore, some studies that include trust as a sub-dimension of legitimacy also comprise questions that tap into trust when measuring procedural fairness (Elliott, Thomas and Ogloff, 2011; Muratbegović, Vujović and Fazlić, 2014; Sunshine and Tyler, 2003; Tankebe, 2009; Tyler and Huo, 2002; Tyler and Wakslak, 2004). These issues of measurement validity have the potential to distort the relationship between the concept of legitimacy and rule-following behaviour (Eisner and Nivette, 2013).

Jackson et al. (2011; 2013) and Hough et al. (2013) sought to remedy these measurement issues by drawing on Tyler's conceptualization of legitimacy as an obligation to obey and on Beetham's (1991) three criteria for legitimacy (lawfulness, shared values and consent). They developed a legitimacy scale comprising three dimensions: obligation to obey, moral alignment (or shared values) and legality (see Table 2 in Appendix 1). Similarly, Jackson et al. (2012; see also Akinlabi and Murphy, 2018; Bradford, Hohl, Jackson and MacQueen, 2015; Van Damme and Pauwels, 2016) drew on Tyler's conceptualization of legitimacy as an obligation to obey as well as on Beetham's three-fold criteria to operationalize legitimacy using two sub-scales: obligation to obey and normative alignment (see Table 2 in Appendix 1). Other researchers have included trust (or confidence) along with the dimensions of normative alignment and obligation to obey (see Reisig and Bain, 2015; Tyler, Geller and Fagan, 2014; Tyler and Jackson, 2013).

Both Hough et al. (2013) and Jackson et al. (2012) tested their conceptualizations of legitimacy vis-à-vis the outcomes of offending behaviour and compliance with the law by extending Tyler's procedural justice theory. In these studies, legitimacy was modelled as a mediating variable between *inter alia* procedural justice elements and rule-following or rule-breaking behaviour. Similarly to the Tylerian inspired studies, legitimacy was *also* treated in some studies as an independent variable affecting rule-following behaviour and as a dependent variable impacted by *inter alia* procedural justice elements (see Table 2 in Appendix 1). Despite Jackson et al.'s and Hough et al.'s efforts to resolve the measurement issues relating to legitimacy, the problem remains. Their approach does not offer any sustained argument for measuring legitimacy in terms of an obligation to obey.

Bottoms and Tankebe (2012) addressed these shortcomings in their dialogic approach to legitimacy. First, rather than defining legitimacy in terms of an obligation to obey and

trust, Bottoms and Tankebe view legitimacy in terms of Coicaud's definition: legitimacy is the right to rule. Second, by drawing on the works of Weber (1978) and Raz (2009), Bottoms and Tankebe (2012) argued that legitimacy is best conceptualized as a continuous dialogue between a power-holder and its various audiences² with the former making claims and the latter responding to them with power-holders then adjusting those claims and so on. Through this recursive claim-response, power-holders and their audiences come to a shared understanding concerning the meaning of legitimacy (Bottoms and Tankebe, 2012). Tankebe (2013) noted that because dialogues can take different forms in different contexts, the meaning of legitimacy may differ according to societies. However, and as can be seen in Table 3 in Appendix 1, by drawing on Beetham's (1991) and Coicaud's (2002) same three-fold conceptualization of audience legitimacy (incorporating the concepts of lawfulness, shared values and consent) and Williams' (2005) BLDs, Bottoms and Tankebe (2012, 2017) hypothesised that police audience legitimacy in liberal democracies comprises four BLDs: lawfulness, procedural justice, distributive justice and effectiveness.³ Lawfulness embodies the extent to which police authorities obtained power in accordance with the law and exercise that power in terms of the rule of law (Bottoms and Tankebe, 2012). Procedural fairness reflects the degree to which police authorities abide by the Tylerian concepts of the quality of decision making (that is, whether police act neutrally, consistently, transparently and impartially) and the quality of treatment (that is, whether police treat their audiences with dignity, respect and courtesy) (Paternoster et al., 1997; Sunshine and Tyler, 2003; Tyler, 2003). Distributive fairness captures the extent to which police allocation of resources and outcomes is seen as fair (Tankebe, 2013). Effectiveness is a normative rather than an instrumental notion and reflects the capability of the police to act competently and effectively in the performance of their roles or functions (Bottoms and Tankebe, 2012; Tankebe, 2013). Unlike the Tylerian process-based model (see Sunshine and Tyler, 2003) and the Jackson et al.'s (2012) and Hough et al.'s (2013) legitimacy model in which judgments of procedural justice, distributive justice and effectiveness are considered as antecedents of legitimacy, the Bottoms-Tankebe four-dimensional model of police legitimacy treats the components of lawfulness, procedural fairness, distributive fairness and effectiveness as constitutive elements of legitimacy rather than antecedents thereof (Bottoms and Tankebe, 2012) with

² A power-holder in its journey towards legitimacy may sometimes need to address two or more audiences simultaneously with each audience potentially having different claims (Bottoms and Tankebe, 2012; Liebling, 2002).

³ The component of distributive fairness was considered implicitly by Bottoms and Tankebe (2012) when discussing the dimension of lawfulness before being explicitly added by Tankebe (2013).

obligation to obey functioning as a mediating variable between the four components of legitimacy and rule-following behaviour.⁴ As can be seen in Table 3 in Appendix 1, Tankebe (2013; see also Tankebe et al., 2015) has generally found that obligation to obey mediated the relationship between legitimacy and rule-following behaviour.

To summarise, all three conceptualizations of legitimacy seek to explain compliance with the law and cooperation with legal authorities, although the route towards the dependent variable of behaviour is different. The Bottoms-Tankebe conceptualization of legitimacy only operates as an independent variable that may affect the dependent variable of behaviour (whether directly or indirectly through the mediating variable of obligation to obey), but in the Tylerian conceptualizations and in Hough et al.'s model (see also Jackson et al., 2012), legitimacy *generally* operates as a mediating variable that affects rule-following behaviour.

Having examined the three broad forms of conceptualizing and measuring legitimacy, I now turn to studies that conceptualize and measure legitimacy in workplace, taxation and organizational contexts. These studies are presented in Table 4 in Appendix 1. It is clear from Table 4 that *most* studies in workplace, taxation and organizational contexts have adopted Tyler's (1990) original definition of legitimacy to conceptualize and measure legitimacy as an obligation to obey, resulting in the same validity concerns explained above. In these studies, and as can be seen in Table 4 in Appendix 1, legitimacy akin to the Tylerian vein of studies is treated as an independent variable that affects rule-following behaviour, as a dependent variable affected by *inter alia* procedural justice, as a mediating variable and as a moderating variable. To date, no study in workplace, taxation or organizational contexts in criminology has employed Jackson et al.'s (2011; 2012) two-dimensional and three-dimensional conceptualizations of legitimacy or the Bottoms and Tankebe (2012; 2017) four-component model to measure legitimacy in workplace, organization or regulatory contexts. Nevertheless, Beetham and Lord (1998) employed Beetham's (1991; 2013) three-dimensional framework (the underlying foundation of the Bottoms-Tankebe multidimensional model of audience legitimacy) to examine the legitimacy of EU institutions while Lord (2016) has proposed applying Beetham's three-dimensional framework to examine the legitimacy of enforcement responses to transnational corporate bribery. In addition, Tankebe (2019b) made a convincing argument to utilize the four dimensions of police audience legitimacy to understand rule-following behaviour in organizational contexts.

⁴ Other researchers have acknowledged Bottoms and Tankebe's (2012) criticism of the Tylerian inspired conceptualizations of legitimacy when operationalizing perceived obligation to obey, and accordingly did not label the concept as legitimacy but as an obligation to obey (Baker et al., 2015; Pryce, Johnson and Maguire, 2017).

Having examined the three main ways in which legitimacy has been conceptualized and measured in criminology, including studies that measure legitimacy in workplace, taxation and regulatory contexts, I turn to the literature on organisational legitimacy. In contrast with criminology, in which legitimacy is an important variable that seeks to explain rule-following behaviour and attitudes to compliance and cooperation, in organisational literature legitimacy is crucial for organisational survival (Deephhouse and Suchman, 2008).

1.2 Legitimacy in organizational studies

In a widely cited paper, Suchman (1995:574) defined legitimacy as “a generalized perception or assumption that the actions of an entity are desirable, proper or appropriate within some socially constructed system of norms, values, beliefs and definitions”.⁵ Suchman proposed a broad threefold typology of organizational legitimacy: pragmatic legitimacy; moral legitimacy; and cognitive legitimacy. Similar to Bottoms and Tankebe (2012), Suchman (1995) recognizes that an organization may need to face multiple audiences. Pragmatic legitimacy is based on self-interested calculations of an organization’s most immediate audiences and can take one of three forms: exchange, influence and dispositions (Suchman, 1995). In contrast to pragmatic legitimacy, moral legitimacy rests not on self-interested judgements but on a normative assessment/evaluation of whether an organization is acting in accordance with social norms in a manner that promotes societal welfare and can take one of four forms: assessments of consequences, assessments of procedures, assessments of structures and assessments of character (Suchman, 1995). Moral legitimacy as an umbrella concept is similar to the criterion of share values in the Coicaud-Beetham framework. Further, the sub-types of consequential and procedural legitimacy are similar to dimensions of effectiveness and procedural fairness respectively in the Bottoms-Tankebe (2012) multidimensional model. Cognitive legitimacy, in contrast to pragmatic and moral legitimacy, involves a passive assessment rather an active evaluation (either self-interested or normative) that an organization is necessary and taken-for-granted (Suchman, 1995:582). The sub-type of taken-for-grantedness is similar to the notion of dull compulsion,⁶ which does not feature as a criterion of legitimacy in the Bottoms-Tankebe framework. Other organizational scholars have developed typologies similar to Suchman. For instance, Aldrich and Fiol (1994) differentiated between cognitive and sociopolitical legitimacy (similar to the concept

⁵ Few studies in criminology expressly cite Suchman’s (1995) definition (Jackson, 2015; Tyler, et al., 2007; Tyler and Blader, 2005)

⁶ Dull compulsion refers to feelings of powerlessness and resignation.

of moral legitimacy). Scott (1995) distinguished between three forms of legitimacy: regulative, normative and cognitive. While normative and cognitive legitimacy are similar to Suchman's types of moral and cognitive legitimacy, regulative legitimacy, which stresses conformity with rules, is similar to the concepts of legality or lawfulness in the Coicaud-Beetham and Bottoms-Tankebe frameworks.

Measures of organisational legitimacy vary; some studies employed objective, proxy or secondary indicators to measure it (Deephouse, 1996; Deephouse and Carter, 2005; Ruef and Scott, 1998; Suddaby and Greenwood, 2005) but few have used subjective or perceptual measures. This review has identified six such studies that will be examined in chronological order below. None of these studies seek to measure the legitimacy of regulatory authorities.

The first study was conducted by Elsbach (1994) prior to the three-fold conceptualization advanced by Suchman (1995) and measured the legitimacy of the California Cattle industry. Elsbach (1994) developed a 12-item legitimacy scale that measured, on a seven-point Likert scale, two dimensions of organizational legitimacy: organizational endorsement (internal (support by employees) and external (support by the general public)) and organizational normativity (attributes that a legitimate organization ought to possess).⁷ Four of the items in this scale appeared to measure the dimension of lawfulness: "the organization follows government regulations for operating procedures in the cattle industry", "the organization is committed to meeting the cattle industry standards in its production operations", "the organization is concerned with meeting acceptable standards for environmental protection, food safety and animal welfare" and "the organization's leaders believe in 'playing by the rules' and following operating guidelines" (Elsbach, 1994:51). Foreman and Whetten (2002) later developed a six-item scale to measure the cognitive legitimacy and a seven-item scale to measure the pragmatic legitimacy of rural cooperatives. Some of the items measuring pragmatic legitimacy also seemed to measure certain properties of the quality of treatment: "compared with similar businesses, co-ops, in general are more supportive when members and patrons have financial problems" and "compared with similar businesses, co-ops, in general have a friendlier and more helpful atmosphere" (Foreman and Whetten, 2002:632-633). One item also appeared to measure an aspect of the quality of decision-making: "compared with similar businesses, co-ops, in general offer greater opportunity for customers and members to influence the ways things are done" (Foreman and Whetten, 2002:632-633). Pollack, Rutherford and Nagy (2012) constructed a three-item scale

⁷ Although Elsbach (1994) distinguished between two dimensions of organisational legitimacy, she measured the concept in a unidimensional manner by creating an additive scale.

that measured stakeholder perceptions of entrepreneurs' cognitive legitimacy. Moreover, Diez-Martin, Prado-Roman and Blanco-Gonzalez (2013) developed a 21-item scale that measured both the internal and external legitimacy of Spanish mutual guarantee societies in terms of Suchman's typology of pragmatic, moral and cognitive legitimacy. Humphreys and Latour (2013) adapted the scale developed by Elsbach (1994) to measure perceptions of users' and nonusers' normative legitimacy of the online gambling industry. In addition, the study measured cognitive legitimacy not by employing a scale but by utilizing response latency measures that calculated the response time between legitimating and delegitimizing stories.

More recently, Alexiou and Wiggins (2018) developed a three-factor scale that measured Suchman's tripartite model of pragmatic, moral and cognitive legitimacy. Unlike the context-specific nature of previous measures of organization legitimacy, Alexiou and Wiggins' (2018) three-dimensional scale was developed to be applied across contexts. No studies in the organizational context have sought to measure the legitimacy of regulatory authorities, including financial regulators. Admittedly, this is not within the remit of organisational scholars. Indeed, they are more concerned with business, entrepreneurial or profit-making firms. Regulators are generally regarded as an audience of commercial organisations (Bitektine and Haack, 2015; Deephouse, 1996; Deephouse and Carter, 2005; Deephouse and Suchman, 2008; Oliver, 1997). Having examined legitimacy in organisational studies, I turn to legitimacy in regulatory studies. In regulatory studies, as in criminology, legitimacy is important not only because it makes compliance and cooperation with regulators more likely (Black, 2008) but also for other reasons as described below.

1.3 Legitimacy in regulatory studies

Baldwin (1996) did not explicitly define legitimacy in the regulatory context. At the beginning of his chapter, Baldwin (1996:83) argued that regulators face issues in "securing support or legitimation" from their multiple audiences (regulatees, politicians and the general public). Later, Baldwin (1996:90) argued that in attempting to secure support, a regulator "may invoke five types of argument to invoke legitimacy".⁸ In line with Weber but in

⁸ In an earlier text Baldwin (1995:39) seemed to offer a different implicit definition when he argued that "values do play a role in justifying and legitimating particular government procedures. The legitimacy of an administrative process can thus be seen in terms of the persuasive arguments made in its favour". This argument resonates with the criticism that Beetham (1991:11) advances of Weber's definition of legitimacy: "a given power relationship is not legitimate because people believe in its legitimacy, but because it can be *justified in terms of* their beliefs". Indeed, one of the central tenets of Beetham's tripartite conceptualization of legitimacy is that power must be justified according to shared values.

contrast to Beetham, Baldwin (1996) approached legitimacy from the standpoint of the power-holder when he argued that a regulator may seek to secure legitimacy by making the following five claims:

- (i) a legislative claim – the regulator claims legitimacy on the basis of delegated power from a parliament that is democratically elected;
- (ii) an accountability claim – the regulator secures legitimacy through measures of accountability;
- (iii) a due process claim – the regulator claims legitimacy on the basis of using fair procedures;
- (iv) an expertise claim – the regulator claims legitimacy on the grounds that it is staffed by experts who are taking expert judgments and acting in the public interest; and
- (v) an efficiency claim – the regulator claims legitimacy on the grounds that it is performing its functions effectively and efficiently.

Although Baldwin approached legitimacy from the perspective of the power-holder, his claims are similar to demands made by audiences in criminological and organisational studies. The legislative claim is similar to the dimension of lawfulness in the Bottoms-Tankebe framework and to the pillar of regulative legitimacy in Scott's typology. The due process claim is similar to the dimensions of procedural fairness and procedural legitimacy in the Bottoms-Tankebe model and in the Suchman typology respectively. Finally, the expertise and efficiency claims are similar to the component of effectiveness in the Bottoms-Tankebe four-dimensional model and to the sub-type of consequential legitimacy in Suchman's three-fold typology. Similar to the Bottoms-Tankebe (2012, 2017) dialogic approach to legitimacy, Baldwin (1995:41-42) argued that legitimacy claims involve a "discourse of justification" and that it is their "cumulative force" which justifies authority. Moreover, both Bottoms and Tankebe (2012, 2017) and Baldwin (1995) argue that tensions could exist between the different BLDs and legitimacy claims.

Majone (1996, 1998) approached regulatory legitimacy from a different perspective than Baldwin (1996) but proposed concepts that are broadly similar to those put forward by Baldwin. Majone (1996) argued that independent regulatory agencies (IRAs), as non-majoritarian institutions (public bodies that are not directly accountable to the public or to elected officials), suffer from an inherent democratic legitimacy deficit. According to Majone (1998) this is because democratically elected governments may delegate policy-making powers to IRAs but cannot transfer their own legitimacy. He proposed that procedural and

substantive legitimacy principles offer a promising way to address that deficit. Procedural legitimacy involves improving accountability and transparency by giving reasons for decisions, by ensuring public participation and by allowing avenues for judicial review. It is therefore similar to some aspects of Tyler's (2003) quality of decision-making and to Baldwin's (1996) accountability and due process claims. Substantive legitimacy refers to the extent to which the purposes and functions of IRAs are clearly defined. Majone (1997:161) stated that clarity of goals is fundamental because "accountability by results cannot be enforced when the objectives of an organization are too vague or too broad".⁹ Two points should be noted here. First, substantive legitimacy echoes aspects of lawfulness, which as noted above, incorporates the notion of the rule of law. According to Bingham (2010:37) an integral criterion of the rule of law is that rules "as far as possible must be clear, intelligible and precise". Second, substantive legitimacy is also similar to the dimension of effectiveness in the Bottoms-Tankebe model, to the sub-type of consequential legitimacy in organizational legitimacy and to Baldwin's efficiency claim.

Prosser (2010) adopted a different starting point from Baldwin and Majone. He maintained that claiming the legislative, expertise, efficiency and accountability mandates as "sources of legitimation" is far too simplistic. According to Prosser (2010:8) regulation should not be thought of in terms of a principal-agent relationship but as "regulatory enterprise" involving collaboration between different sections of government and the regulator. In this collaborative approach, Prosser (2010) advocated the application of procedural values (in particular, increasing transparency, similar to the Tylerian aspect of the quality of decision-making – that is, giving reasons for decisions) in order to achieve "regulatory deliberation" which can be instrumental in obtaining a mutual agreement. This notion of "regulatory deliberation" appears to be very similar to Bottoms and Tankebe's argument that legitimacy is best conceptualized as dialogic. However, while Bottoms and Tankebe conceptualize legitimacy as a dialogue within which procedural justice is a dimension of legitimacy, Prosser seems to argue that procedural values *lead to* deliberation.

These approaches have been applied in relation to various regulators, but not financial regulators. Boulding (1969) was one of the first to analyze the legitimacy of financial regulators. He identified six sources of legitimacy: (i) payoffs – similar to effectiveness in the Bottoms-Tankebe framework, consequential legitimacy in Suchman's typology and Baldwin's efficiency claim; (ii) sacrifices; (iii) age; (iv) mystery; (v) ritual or artificial order;

⁹ See also Majone (1996:294).

and (vi) alliance with an already legitimate organization or the “legitimacy syndrome”. He first applies these six sources of legitimacy to the banking system and then to central banks.

Tucker’s (2018) *Unelected Power* offers a more recent analytical framework to examine central banks and regulators. Tucker draws on Beetham’s three-fold conceptual scheme and argues that because not all people in a liberal democracy hold exactly the same values and beliefs about politics then Beetham’s second condition (justification according to shared values) must be revised in terms of William’s (2005) Basic Legitimation Demand to take every citizen into account. That is to say, a power-holder must justify his or her power to every citizen. Consequently, Tucker (2018:162) argues that “a regime for delegating power to unelected, independent and officials needs ... to enjoy legitimacy under different conceptions of democratic governance that prevail among reasonable people living in representative democracies”. He then attempts to develop a robustness test to assess the legitimacy of regulators. In developing his test, Tucker (2018) assumes that different strands of liberal political and democratic theories are reflected to varying degrees in the values of audiences that assess the legitimacy of regulators but acknowledges that people may not express their thoughts in the same manner as explicated by political theorists. Tucker’s robustness test is divided into five precepts each with their own sub-precepts, which may be summarized as follows:

- (i) Purposes and powers precept – lawmakers ought to clearly set out the goals and functions of a regulator and restrict those powers;
- (ii) Procedures precept – lawmakers ought to clearly set out who will exercise the delegated powers and the procedures used to delegate those powers and how they will be exercised;
- (iii) Operating principles precept – the regulator ought to be publish guidelines on how it plans to exercise its discretion;
- (iv) Transparency and accountability precept – the regulatory regime should be open and capable of being monitored and checked by elected representatives; and
- (v) Emergencies – there ought to be rules in place for when a regime experiences a crisis, including how democratic accountability should operate in such scenarios.

The precepts of “purposes or powers” and “procedures” are similar to the dimensions of lawfulness (Beetham, 1991; Bottoms and Tankebe, 2012; Coicaud, 2002) in criminology and to regulative legitimacy (Scott, 1995) in organizational legitimacy, which emphasize that powers must be exercised in accordance with the law, as well as to Majone’s (1998) notion of substantive legitimacy, which underscores the importance of legal certainty. Furthermore, the

“transparency and accountability” precept is similar to the concepts of: (i) procedural fairness in the Bottoms-Tankebe (2012) model; (ii) procedural legitimacy in Suchman’s (1995) framework; (iii) Baldwin’s accountability and due process claims; (iv) Majone’s (1996; 1998) procedural principles; and (v) Prosser’s (2010) procedural values.

The foregoing approaches are theoretical and analytical in nature and to my knowledge none of these concepts have been operationalized when measuring regulatory legitimacy.¹⁰ Indeed, few studies in the regulatory context seek to measure regulatory legitimacy. An exception is Amirkhanyan, Meier and O’Toole’s (2017:381) study in which the authors developed a measure for “perceived regulation legitimacy” in the nursing context. For Amirkhanyan et al. (2017) regulation legitimacy refers to: (i) perceptions of regulation fairness; (ii) perceptions of regulators’ effectiveness; and (iii) internal adoption/use of externally mandated performance standards. They combined three items (one for each dimension of regulation legitimacy) from the Texas A&M University Nursing Home Administrator survey to create a regulation legitimacy scale. Using a sample of 717 organisations, they found that perceptions of regulation legitimacy increase the quality of nursing homes.

So far I have reviewed criminological, organisational and regulatory studies that seek to conceptualize and measure legitimacy. Despite the various standpoints involved, these perspectives agree that legitimacy is a multi-dimensional concept. What appears to differ is the nature of the dimensions. Nonetheless, it is clear that the dimensions of lawfulness, effectiveness, and procedural fairness resonate throughout the criminological, organisational and regulatory literature. This suggests that legitimacy incorporates (as alluded to briefly above) many aspects of the rule of law as explicated by Dicey (2013), Bingham (2010) and Tamanaha (2004). The dimension of lawfulness (exercising power in accordance with the law) is congruent with Dicey’s (2013) first principle of the rule of law which stresses the need to eschew arbitrariness; Bingham’s (2010) fourth principle requires that power-holders must not abuse their powers, which is similar to Tamanaha’s (2004) first theme – power-

¹⁰ Most of the foregoing concepts are operationalized when measuring regulatory governance and not regulatory legitimacy. Marques and Pinto (2018:73) argue that sound regulatory governance (which refers to the regulatory framework within which decisions are made) is essential to *inter alia* “increasing credibility and legitimacy (and therefore acceptability)”. They propose a multidimensional scorecard to measure regulatory governance incorporating many of the concepts examined by Baldwin, Majone and Tucker in their analysis of regulatory legitimacy. Their measure consists of three dimensions: (i) the inner dimension, incorporating the criteria of transparency, predictability, consistency, proportionality and integrity; (ii) the outer dimension, composed of the criteria of clarity of rules, regulatory coordination (role clarity) and authority to perform its functions; and (iii) the relational dimension, comprising the criteria of autonomy, public participation and accountability.

holders limited by law. The aspect of lawfulness (emphasising legal certainty) as already noted resonates the principles articulated by Bingham (2010) and Tamanaha's (2004) emphasis on formal legality which includes the quality of certainty. The dimension of procedural justice (emphasising aspects of independence, impartiality, fairness, accountability, and transparency) resonates with Dicey's (2013) second and third principles of the rule of law which concern equality before the law and human rights respectively. We find similar themes in Bingham's (2010) third and seventh principles on equality before the law and the right to a fair trial, and Tamanaha's (2004) insistence on the quality of equal application of the law. However, the procedural justice literature, as spearheaded by Tom Tyler, places emphasis on how individuals experience the exercise of power. It is possible for power-holders to be legally correct in their procedures and yet be viewed as unjust (see Scarman 1981). Do one or more of these dimensions reflect the BLDs of operators in the Maltese financial services sector? This question will be addressed in the next two sections.

1.4 Defining legitimacy in the Maltese regulatory context

Having reviewed three major strands of literature on legitimacy, I now turn to the questions of how regulatory legitimacy should be defined and how it should be conceptualized and measured in the Maltese regulatory context. In this study and similar to Bottoms and Tankebe (2012), I employ Coicaud's (2002:10) definition of legitimacy: "the recognition of the right to govern". I do so for several reasons. First, and as previously noted, legitimacy ought not to be defined in terms of "an obligation or duty to obey", because as observed by Tankebe (2013), a perceived obligation to obey should not be equated with legitimacy since obligation is a broader concept than legitimacy. People may feel obliged to obey not only out of considerations of legitimacy, but for instrumental reasons, out of habit or "dull compulsion" (Beetham, 2013; Carrabine, 2005; Marx, 1887; Raz, 2009). A similar argument can be made in respect of how Baldwin (1996) implicitly defined legitimacy in terms of "support". As Von Haldenwang (2016) explained, audiences may support a power-holder for instrumental or for normative reasons or even out of habit. Moreover, even if Baldwin (1996) did not equate legitimacy with support, his "legitimacy claims" refer to legitimation, that is, when "a ruler seeks to make, enhance or cultivate his/her claim to have the right to rule" and not to legitimacy "which is an attribution conferred on a power-holder by his/her audience(s), acknowledging that he/she [has] ... the right to rule" (Bottoms and Tankebe, 2012:64). Second, by explaining legitimacy in terms of citizens' positive recognition of power-holders'

moral right to power, Coicaud's definition highlights the normative aspect of legitimacy (Bottoms and Tankebe 2012:125). This is the reason why Suchman's definition is not utilized in this paper. As noted, Suchman (1995:574) deemed an organization legitimate if there is an "*assumption* that the actions of an entity are desirable, proper or appropriate within some socially constructed system of norms, values, beliefs, and definitions". Drawing on Beetham's (1991) criticism of Weber's "belief in legitimacy", I contend that an organization is not legitimate if people assume its actions to be desirable, proper or appropriate. Beetham (1991:11) maintained *inter alia* that Weber "misrepresents the relationship between beliefs and legitimacy". According to Beetham (1991:11), "a given power relationship is not legitimate because people believe in its legitimacy, but because it can be *justified in terms of* their beliefs". Assumptions are similar to beliefs and therefore an organization is not legitimate because people assume its actions to be desirable, proper or appropriate but because its actions can be justified in terms of their assumptions or beliefs. Further, the assumption that a power-holder is legitimate is a form of passive recognition or taken-for-grantedness and is therefore similar to dull-compulsion or habit. Conflating legitimacy with these passive concepts obscures a proper measurement of legitimacy. Third, Coicaud's definition, captures the view that discussions on legitimacy must take into account power-holders and their audiences (Bottoms and Tankebe, 2012). Fourth, and flowing from the previous point, in terms of this definition legitimacy is regarded as necessarily conditional or defeasible (Bottoms and Tankebe, 2012).

1.5 Conceptualizing and measuring regulatory legitimacy

Having defined legitimacy, I now turn to the question of how the legitimacy of the MFSA as perceived by one its main audiences (operators) should be conceptualized and measured. Given that legitimacy should not be conceptualized and measured as an obligation to obey or trust, how should the legitimacy of the MFSA be conceptualized and measured, in a way that is valid? All three strands of the literature explored above acknowledge that legitimacy is multidimensional in nature or is dependent on a number of claims. This conclusion is supported by Tankebe's (2013:106) assertion that the "multidimensionality [of legitimacy] is perhaps not a contested issue". However, Beetham (1991:22) contended that despite different empirical variations in legitimacy across countries it is possible to hypothesize that there is an "underlying structure of [audience] legitimacy common to all societies, however much of its content will vary from one to the other". Given the similarities between criminological,

organisational and regulatory frameworks, I could hypothesize that operators' perceptions of MFSA legitimacy can be measured in terms of the dimensions of lawfulness, procedural fairness, distributive fairness and effectiveness. That is, given that similar dimensions appear under different names in three different strands of literature each writing from a different standpoint it can be argued that these concepts could reflect the dimensions of MFSA legitimacy as perceived by regulatees. Were I to adopt such strategy, however, this research would suffer from the defect acknowledged by Tankebe (2014) when operationalizing policing legitimacy: that is, adopting a normative approach to conceptualizing and measuring legitimacy (Tankebe, 2014).

To understand this methodological limitation, it is necessary to visit the distinction set out by Hinsch. Legitimacy has two different concepts: a normative concept and an empirical concept (Hinsch, 2008). Although both concepts share a critical element – in that they both emphasize the normative aspect of legitimacy – a crucial difference distinguishes them (Hinsch, 2010). While the normative concept of legitimacy, adopted by moral philosophers, employs a set of “objective” criteria to assess legitimacy and expresses moral approval as to the legitimacy of a particular legal system, the empirical concept of legitimacy, employed by social scientists following in the tradition of Weber, considers an institutional arrangement to be legitimate if, as a *matter of fact*, it meets with the approval of those who are subject to this arrangement (Hinsch, 2010:40). Unlike the normative concept of legitimacy, this does not involve passing any normative judgment as to whether the evaluator considers such system legitimate (Hinsch, 2008).

The distinction between normative and empirical legitimacy may also be seen through the lens of Blumer's (1954:7) “definitive” and “sensitising” concepts. Blumer (1954) explained that whereas definitive concepts are defined in terms of precise attitudes or fixed benchmarks, sensitising concepts lack such attitudes or benchmarks. Blumer (1954) further noted that definitive concepts afford the researcher strict definitions of what to search for when conducting research and that sensitising concepts serve as a heuristic device that provides the researcher with a guide in this respect. Looking at Hinsch's concepts through Blumer's lens it is arguable that while normative legitimacy is associated with definitive concepts, empirical legitimacy is linked with sensitizing concepts. Applied to financial regulatory legitimacy, sensitizing concepts discourage researchers from a priori prescriptions of the criteria or dimensions that constitute legitimacy in that particular context.

Adopting a normative approach when measuring legitimacy has two defects. The first,

a philosophical one, may be seen through the lens of Williams' (2005) BLDs, an approach similar to Bottoms and Tankebe's dialogic conception of legitimacy.¹¹ Williams (2005) argued that when power-holder *A* claims authority over audience *B*, *A* must justify or explain its claim to power (the legitimization story) by meeting the BLD. Therefore, the BLD represents a demand by audiences that the power-holder provide an adequate justification of his/her claim to rule. Williams suggests that *B* will then assess the legitimization story and if the BLD *makes sense* (MS) to *B* then *A*'s claim to power will be accorded legitimacy. In exploring what MS to audiences, Williams (2005:186-187) maintained that we "need concepts which are rooted in more local practices, our culture, and our history" and thus his analysis of legitimacy rejects political moralism (normative theories of legitimacy that stress the priority of the moral over the political by setting out universal moral principles to assess the state's right to rule) and instead pursues political realism. He contends that by examining legitimacy with antecedent moral views, political moralism "mistakes the contextual judgments about what makes sense with the basic conditions of satisfying the BLD." (Hall, 2015:4). This implies that what MS in a financial regulatory context reflects a range of variables that cannot be adequately captured by adopting or adapting scales from previous studies.

Second, and flowing from the first point, given that legitimacy dialogues, the meaning of legitimacy and what MS to audiences can differ according to the particular context, employing a normative approach to conceptualize and measure regulatory legitimacy by drawing on scales from previous studies may not adequately capture the meaning of legitimacy in the financial regulatory context (Beetham, 1991; Tankebe, 2013). How can these epistemological limitations be addressed?

Tankebe (2014) proposed that researchers who seek to develop scales to measure legitimacy ought to adopt the social-scientific two-stage approach employed by Liebling and colleagues (2004) to develop the Measuring Quality of Prison Life (MQPL) survey, which can be regarded as a measure of a prison's "interior legitimacy" (Sparks, 1994 and Sparks and Bottoms, 2008 cited in Liebling, Hulley and Crewe, 2012a:361). Liebling (2004:128) reviewed measures of prison environments (such as Key Performance Indicators and Targets, Moos' Correctional Institutions Environment Scale, Toch's Prison Preference Inventory, the

¹¹ Bottoms and Tankebe (2012) argued that legitimacy should be conceptualized as a continuous dialogue between a power-holder and its various audiences with the former making claims and the latter responding to those claims with power-holders then adjusting those claims and so on. Through this recursive claim-response, power-holders and their audience(s) come to a shared understanding concerning the meaning of legitimacy (Tankebe et al. 2016).

Federal Bureau of Prisons' Prison Social Climate survey) and observed that "there is no accepted consensus in the literature (or in practice) of what is meant by quality or how it should be measured" and that "part of the difficulty" is a reliance on "quantifiable measures of what are basically qualitative dimensions". Liebling and colleagues sought to address these measurement issues by seeking to discover "what matters most" in prison "to whom" and "why" (Liebling, et al, 2012:358-359; Ross, Diamond, Liebling and Saylor, 2007). To accomplish this goal, they used a triangulated research design incorporating an inductive approach (appreciative inquiry (AI)) and a deductive approach (the design and administration of a detailed quality of life survey). AI helped to identify a broad range of moral and relational factors that matter most in prison: respect, humanity, staff-prisoner relationships, support, trust, fairness, order, well-being, personal development, family contact, power, meaning and decency (Liebling, 2004; Liebling et al., 2012a). These factors were then operationalized to create the MQPL (Liebling et al., 2012a). In 2007, the MQPL was systematically revised as part of an ESRC-funded study culminating in the development of five dimensions reflective of the moral performance of prisons: harmony, professionalism, security, conditions and family contact, and well-being and development (Liebling et al., 2012a).^{12/13}

This research adopts Liebling's social-scientific two-pronged approach as suggested by Tankebe (2014) to conceptualize and measure MFSA audience legitimacy. This social scientific approach involved a mixed-methods design incorporating an inductive and a deductive stage. The inductive stage involved interviews with MFSA licensed operators. The objective of this stage was to identify what legitimacy means to Maltese operators (that is, what operators expect from the MFSA, what their BLDs are, or in Liebling's (2004) language what matters to operators licensed by the MFSA and why. The deductive stage entailed the development and administration of a regulatory legitimacy survey informed by the interviews. Through exploratory and confirmatory factor analysis (as well as tests to assess the convergent and discriminant validity of the legitimacy measures) the deductive stage identified a three-factor multidimensional model that reflects the BLDs of MFSA licensed

¹² To evaluate staff quality of life, Liebling and colleagues, using the same methods described above, developed a Staff Quality of Life (SQL) survey (Harding, 2014). The SQL was also revised following research conducted by the Prisons Research Centre (PRC) on features of prison officers' work and prisoners' quality of life (Liebling et al., 2012a; Liebling, Price and Shefer, 2012b). The current version of the SQL contains four dimensions: management, job satisfaction, authority and prisoner orientation (Liebling et al., 2012b).

¹³ In 2011 the PRC coined the term MQPL+. This refers to a deep and thick descriptive analysis of a prison's social environment for prisoners and staff ('MQPL +': Analyses of quality, culture, and values in individual prisons, n.d.).

operators. Beetham (1991) cited Winch (1958) who argued that the task of a social scientist is to understand why individuals comply with law. For Beetham (1991), legitimacy provides normative or moral grounds for obedience to authority. He also recognises that people comply with the law for self-interested reasons, hence the quest to understand people's behaviour needs to explore both normative and utilitarian factors. However, as Beetham (1991:27) maintains, there is often a challenge in determining "the precise balance of reasons in any one situation; but is important to distinguish them analytically, since each makes a very different kind of contribution to obedience". Consequently, this dissertation explores the relative influence of legitimacy and deterrence in explaining the behaviour of licenced operators. In the next Chapter, I will review the literature on these factors.

2

Normative Compliance versus Instrumental Compliance

It is truly enough said, that a corporation has no conscience; but a corporation of conscientious men is a corporation with a conscience. (Thoreau, 2016:262)

Corporate crimes should be among the most deterrable offenses because corporations are designed as quintessentially rational organizations built to pursue the highest gains (profits and market share) and to minimize their costs in the pursuit. (Yeager, 2016:439)

2.0 Preliminary

These quotations capture two contrasting reasons why corporations or their employees should comply with the law or cooperate with legal authorities, which can be termed normative and instrumental motivations (Bottoms, 2019). Bottoms (2019) subdivides normative motivations for compliance into four types: acceptance of or belief in social norms; normative attachment; response to normative cues; and legitimacy. While I recognise that other forms of normative compliance are important, since the focus of this dissertation is legitimacy, this Chapter only focuses on legitimacy as form of normative compliance. According to the normative legitimacy perspective, humans are ontologically perceived, in MacCormick's (2007:20) words, to be "norm-users, whose interactions with each other depend on mutually recognizable patterns that can be articulated in terms of right versus wrong conduct, or of what one ought to do in a certain setting". In contrast, in terms of the instrumental perspective, humans are ontologically viewed as rational beings¹⁴ who are sensitive to pain and pleasure and are therefore deterred by the increased *certainly*, *severity* and *swiftness* of punishment (Paternoster and Simpson, 1993; Brown, Esbensen and Geis, 2010).

¹⁴ Drawing on Simon's (1990) concept of "limited or bounded rationality", Cornish and Clarke (2008:25) recognise that: (i) in the real world action generally has to be taken on the basis of decisions made under less than perfect circumstances; (ii) offending is risky and the possible advantages and disadvantages are difficult to estimate in advance; and (iii) other uncertainties, in particular time pressures and differences in experiences and skill must be taken into account. Therefore, even though deterrence is an instrumental form of legal compliance, it does not necessarily require individuals to be completely rational in weighing up the costs and benefits (Von Hirsch, Bottoms, Burney and Wikström (1999).

As guardians of the financial services industry, financial regulators such as the MFSA are charged with regulating, monitoring and supervising the financial services sector. To this end, financial regulators seek to ensure compliance with financial services regulation and to ensure that operators cooperate with the regulator. Moving from the specific to the general, regulators like the MFSA strive to assure compliance and cooperation through a range of strategies. Regulatory compliance and cooperative strategies fall along a continuum (Lord and Levi, 2015; May and Wood, 2003; Murphy, 2008). At one end of the spectrum lies the punishment model characterised by deterrence strategies involving tough legislation, prosecution and severe punishment (Croall, 2004). At the other end of the spectrum is the compliance model characterised by persuasive strategies involving cooperation, education, self-regulation and a reluctance to employ legal sanctions (Gray, 2006b).¹⁵ These regulatory strategies are grounded in the two aforementioned dominant motivations for regulatory compliance. Whereas the punishment model is based on self-interested reasons and is associated with the deterrence and rational choice theories, the compliance model is founded on normative or (principled reasons) and is linked to legitimacy theories (Bottoms, 2002).

Even though financial regulators use a range of strategies to engender compliance and cooperation by regulatees, deterrence remains a key approach to maintaining order (Henning, 2015). For example, following the global financial crisis of 2007-2009, the United Kingdom's (UK) Financial Services Authority moved from a light-touch approach to a "credible deterrence policy" that sought to impose fines not only on regulated entities but on individuals, too (Ryder, 2014:201). Deterrence is considered an appropriate response to financial crimes because, as Braithwaite and Geis (1982:302) observed, "[c]orporate crimes are almost never crimes of passion; they are not spontaneous or emotional, but calculated risk taken by rational actors". However, Schell-Busey et al. (2016) concluded that they did not have enough evidence to support the contention that punitive sanctions deter individual- or company-level offending.

Despite being rooted in opposing assumptions, deterrence and legitimacy are intrinsically linked and should not always be viewed in opposition.¹⁶ This is for several reasons. As Beetham (1991:27) explained in almost all power relations there is a system

¹⁵ In the middle of the spectrum lies the responsive regulation strategy (Ayres and Braithwaite, 1992), a strategy that seeks to promote compliance and cooperation by "hopping off the seesaw" between deterrence and persuasion through a careful combination of both tactics (Braithwaite, 2005:177).

¹⁶ Although legitimacy and deterrence should not be viewed in opposition, as Beetham (2013:27) explained it is "important to distinguish them analytically, since each makes a very different kind of contribution to obedience".

backed by “a framework of incentives and sanctions”. If audiences do not regard a power-holder as legitimate, then the deterrent effect of sanctions would diminish and defiance may occur (Simpson, 2002; Sherman, 1993). Literature indicates that the overzealous use of the “big guns” can be counterproductive and create friction between the regulator and the regulated (Ayres and Braithwaite, 1992; Hawkins, 1984:115; Kagan and Scholz, 1984). Preliminary evidence regarding corporations¹⁷ has also shown that deterrence strategies, especially if perceived as being too severe or unfair, may lead to non-compliance (Simpson et al., 2014), creative compliance (McBarnet, 2001) and defiance (Rorie et al., 2018; Schell-Busey et al., 2016; see however Ariel, 2012).¹⁸ Although it is assumed that legitimacy improves regulatory outcomes, it should be acknowledged that relationships founded on normative considerations can lead to improper conduct by power-holders. For instance, in the prison context, Liebling (2011; see also Liebling et al., 2012b) showed that good relationships between prison staff and prisoners characterised by informality and closeness can result in unethical conduct by prison officers. Tankebe (2019a) has also observed that deterrence studies on conventional crime have marginalised the normative and that legitimacy literature has neglected instrumental factors. As shall be seen in the literature review, the same point applies in relation to deterrence studies in corporate crime and legitimacy studies in regulatory, workplace or organisational contexts.

At the outset it is necessary to explain that several limitations have been raised that temper the association between legitimacy and behaviour: inconsistent instruments, heterogeneous definitions of key outcomes, limited experimental studies, lack of integration of macro and micro perspectives and a lack of cross-cultural evidence (Demir et al., 2018; Eisner and Nivette, 2013; Johnson, Maguire and Kuhns, 2014; Mazerolle et al., 2013; Tankebe, 2014). Another limitation concerns the valid measurement the concept of

¹⁷ More conclusive evidence that deterrence strategies can be counterproductive exists when the unit of analysis is individuals rather than corporations (Braithwaite and Reinhart, 2013; Murphy, 2008; Murphy and Harris, 2007).

¹⁸ Philosophical arguments underpin these empirical findings. First, it is axiomatic that a financial regulator cannot justify its authority by using force or coercion (Williams, 2005). Second, the use of force by a financial regulator to justify its power and to secure both compliance with the law and cooperation from regulatees would be akin to the gunman scenario described by Hart (2012), in which a victim feels coerced to comply and to cooperate rather than feeling a duty to obey, reflecting an argument originally captured by Rousseau (1762/1997:3): “force is a physical power [and] giving way to force is something you have to do, not something you choose to do”. Third, in the short-term, force can be an effective tool in securing compliance and cooperation (Wrong, 2004). However, in the long-term, compliance and cooperation derived solely by force will be unsustainable and impractical because in order to be effective, coercion must be extensive and omnipresent, requiring considerable expenditure of regulatory resources (Beetham, 1991; Wrong, 2004). And if threats of punishment are not occasionally enforced, their credibility will diminish over time (Boulding, 1969). Indeed, force operates only fleetingly. As Rousseau (1762/1997:2) also remarked: “the strongest is never strong enough to be master unless he transforms strength into right and obedience into duty”.

legitimacy (Reisig, Bratton and Gertz, 2007; Maguire and Johnson, 2010, Gau, 2011, 2014; Johnson et al., 2014; Tankebe, 2014). In Chapter 1 I drew on Tankebe (2014) to argue that previous studies in criminology have conceptualized and measured legitimacy incorrectly, for two reasons. First, many studies have measured legitimacy in terms of an obligation to obey, which as explained by Tankebe (2013), is a broader concept than legitimacy. Second, many studies have measured legitimacy by adapting scales from other studies to use in the particular context and therefore adopted a normative approach to operationalising legitimacy by determining *a priori* the dimensions that constitute legitimacy (Hinsch, 2008). This has resulted in a lack of measurement validity because, as Bottoms and Tankebe (2012) explained, legitimacy is a concept whose meaning differs according to context. In order to address this methodological limitation, I build on Tankebe's (2014) proposition to employ Liebling's (2004) two-stage social scientific approach to operationalize regulatory legitimacy in the Maltese regulatory context. The first stage involved an inductive approach through the use of Appreciative Inquiry (AI) interviews to discover the BLDs of financial market participants (see Chapter 5). The second stage of the research involved a deductive approach, entailing the development and administration of a regulatory legitimacy survey informed by AI (see Chapter 6). Using this two-stage process and statistical techniques (exploratory factor analysis and confirmatory factor analysis), in Chapter 6 I developed a multi-dimensional legitimacy scale, comprising sub-three scales: (i) rule of law encompassing the dimensions of lawfulness, procedural justice, trust and competence; (ii) distributive fairness; (iii) and responsiveness.

In the light of the above, this dissertation seeks to achieve two additional objectives. First, it attempts to address the current gap in the corporate crime deterrence literature and in the regulatory legitimacy literature (specifically the limited amount of research in corporate crime deterrence and regulatory legitimacy comparing the effects of legitimacy and deterrence factors on behaviour) by exploring whether deterrence variables or the newly developed legitimacy scales have the greatest impact on Maltese operators' attitudes to compliance with financial services regulation. Second, this dissertation seeks to explore whether obligation to obey mediates the relationship between deterrence, legitimacy and positive compliance attitudes.

This Chapter is divided into 3 sections. The first section provides a concise review of the corporate crime deterrence literature and shows that many studies do not include legitimacy variables. The second section explores three models in criminology that seek to

explain compliance through legitimacy, concluding that most regulatory studies fail to compare instrumental and normative perspective and that the scales used to operationalize legitimacy suffer from a lack of measurement validity.

2.1 Deterrence and corporate crime

Corporations (including regulated companies) and their employees are driven by profit and monetary gain and are likely to make cost-benefit calculations (Sutherland, 1983; Braithwaite and Geis, 1982). It may therefore be assumed that corporations and their employees are sensitive to perceptions of the severity, certainty and celerity of punishment and would therefore be deterred from engaging in offences that have the possibility of jeopardizing the future of the company, their own position and other valued possessions such as reputation, social status, comfortable living and family life (Braithwaite and Fisse, 1983; Braithwaite and Geis, 1992; Schlegel, 1990).

Perceptual studies on deterrence have provided mixed results.¹⁹ Klepper and Nagin (1989) conducted a survey among 163 university students to examine the impact of the likelihood of detection and likelihood of punishment on tax non-compliance and found that the perceived risk of detection and criminal prosecution acted as a deterrent to non-compliance. Braithwaite and Makkai (1991) tested a model of organizational compliance among 410 Australian nursing home executives using a cross-sectional design that incorporated the likelihood that non-compliance would be discovered, the probability of punishment following apprehension and the cost of punishment. These researchers obtained some evidence that the certainty of apprehension deters offending but failed to find support for the certainty and severity of punishment, concluding that deterrence is a “stark failure” (Braithwaite and Makkai, 1991:8). Three years later, Makkai and Braithwaite (1994) conducted a more robust study by employing panel data, finding partial support for the view that chief executive officers (CEOs) with high perceptions of the certainty of apprehension had better regulatory compliance in their organization, a finding which is consistent with the researchers’ original study. Moreover, as with the earlier study, Makkai and Braithwaite (1994) found no evidence that the perceived severity of punishment increases compliance; rather, they discovered a negative relationship between sanction severity and compliance.

In a different vein, Thornton, Gunningham and Kagan (2005) conducted a survey among 233 companies across a range of industries in the United States of America (USA) to

¹⁹ Owing to space considerations, this review only focuses on perceptual-based studies. For objective-based deterrence studies see Del Guercio, Odders-White, and Ready, 2013; Simpson, Garner and Gibbs, 2007; Simpson and Koper, 1992; Stotland et. al., 1980; Weisburd, Waring and Chayet, 1995.

determine *inter alia* whether the general deterrent effect of severe legal penalties imposed on organisations – known as “signal cases” – alters the compliance behaviour of other firms. They found that many organisations that were already compliant with the law when severe legal penalties were imposed on *other* organisations did not generally perceive an increased risk of legal punishment; rather, such knowledge acted as a reassurance that compliance was not a fool’s errand and that compliance mechanisms were working well.

A systematic review conducted by Simpson et al. (2014) sought to identify and summarise published and unpublished studies examining the impact of formal legal and administrative prevention and control strategies taken by law enforcement agencies, legislators and regulatory authorities on individual and corporate offending. Their review also provided mixed results. Law had a modest deterrent effect on corporate offending at the firm and geographic level of analysis, but this result was limited to cross-sectional studies. Punitive sanctions had a deterrent effect, yet this was generally non-significant in both cross-sectional and longitudinal studies. Regulatory policy had a deterrent effect for individuals, not for companies. A more recent corporate crime deterrence meta-analysis was performed by Schell-Busey et al. (2016), the results of which were broadly consistent with the meta-analysis conducted by Simpson et al. (2014) in finding that neither law nor punitive sanctions had an effect on deterring corporate offending and that regulatory policy produced a deterrent effect only for companies.

None of these studies considered legitimacy variables in their analysis.²⁰ Simpson’s (1992) interview-based studies was one of the first to implicitly examine the impact of a hypothesized component of legitimacy (fairness) (see Bottoms and Tankebe, 2012, 2017) in a corporate crime context. Simpson found that perceptions of impartiality varied between top-level and mid-level management; whereas the top-level executives perceived that everyone was treated equally, mid-level managers thought that inconsistencies existed in internal compliance proceedings. This led Simpson to conclude that if internal compliance systems are perceived as unfair, the likely impact of deterrence withers away because it is difficult for employees to measure sanction probabilities.

One of the first models to expressly consider legitimacy variables was Paternoster and Simpson’s (1993:41) rational choice model of corporate crime which they referred to as a

²⁰ Kuperan and Sutiten (1998) compared the effects of deterrence and legitimacy on the compliance behaviour of Malaysian fishermen. This study is not being examined here because the sample consisted of fisherman rather than companies or their employees. Other corporate crime deterrence studies have included other normative considerations, such as moral persuasion, moral rules and personal morality (see for example Ariel, 2012; Piquero, 2012).

“subjective utility theory” of corporate crime. Paternoster and Simpson (1993) proposed a rational choice model of corporate crime that included the following explanatory variables: (i) perceived certainty/severity of formal legal sanctions, of informal sanctions, and of loss of self-respect; (ii) perceived cost of rule compliance; (iii) perceived benefits of noncompliance; (iv) moral inhibitions; (v) perceived sense of legitimacy/fairness; (vi) characteristics of the criminal event; and (vii) prior offending. Moreover, Paternoster and Simpson (1996) tested a partial version of this model among MBA students and business executives by examining the association between the dependent variable of self-reported intention to commit price fixing, bribery, manipulation of data and violating environmental standards, but did not include legitimacy variables in the study.

Simpson (2002) conducted two studies in which she tested Paternoster and Simpson’s subjective utility model of corporate crime, in which legitimacy was explicitly considered as a variable that might affect decisions to offend. The first study was conducted among first-year MBA students and a group of managers attending an executive education programme. Using vignettes, Simpson (2002) found that criminal, civil or regulatory sanctions did not have a significant impact on offending. However, when the vignette portrayed managers as questioning “how the law was applied” or “the substance of the law” (which Simpson (2002:127) referred to as “the perceived legitimacy of the law”), participants’ criminal intentions increased. In the second study, Simpson (2002) administered a revised version of the original survey (see full details in Simpson, 2002:139-141) to managers in work settings, along with MBA students. Similarly to the first study, criminal, civil or regulatory sanctions had no significant effect on intentions to offend, but unlike the first study, perceptions that the law was unfair (Simpson’s measure of legitimacy) were unrelated to offending intentions.

This brief review has demonstrated that evidence of the impact of deterrence on corporate crime is mixed and that a limited number of deterrence studies include legitimacy variables in their analyses. The latter point precludes comparisons between deterrence and legitimacy variables. Moreover, in the studies considered above, legitimacy is associated with fairness and, as shall be seen below, legitimacy is a broader concept than fairness.

2.2 Legitimacy and audience behaviours

Legitimacy, or the right to rule, involves two different concepts: a normative concept and an empirical concept (Hinsch, 2008). Although both concepts share a critical element in that they both emphasize the normative, a crucial difference distinguishes them (Hinsch, 2010). While the normative concept of legitimacy adopted by moral philosophers applies a set of

“objective” criteria to examine legitimacy and expresses moral approval of the legitimacy of a particular legal system if these criteria are satisfied, social scientists following in the tradition of Weber consider an institutional arrangement to be legitimate if, as a *matter of fact*, it meets with the approval of those who are subject to this power arrangement (Hinsch, 2010:40). Unlike the normative concept of legitimacy, the empirical concept does not involve passing any value judgment on whether the evaluator considers such system to be legitimate (Hinsch, 2008). This review concentrates on the empirical concept of legitimacy as an explanation for order.

Within the social scientific approach, Weber was one of the first to connect legitimacy to order. Weber argued that for order to prevail, the ruled must submit to the authority of the ruler (Lassman and Spiers, 2010). Writing from the perspective of power-holders and adapting Jellinek’s “empirical types”, Weber proffered three grounds for legitimating any rule (Lassman, 2000:90). The first is “traditional-rule” characterized by custom and habit. The second is “charismatic-rule” that emphasizes the importance of a ruler’s personal qualities. The third is “legal-rational rule” which underscores the belief in the validity of a legal statute and the appropriate juridical competence based on rationally devised rules (Lassman and Spiers, 2010).

In criminology, the starting point for any review on normative compliance would undoubtedly be Tom Tyler. Tyler (1990, 2003; see also Tyler and Huo, 2002) departed from Thibaut and Walker’s (1975) instrumental model of procedural justice to propose a process-based model of procedural justice. In this relational model, Tyler (2003) postulated that the antecedent concept of procedural justice (i) fosters legitimacy, which in turn encourages compliance with the law, cooperation with legal authorities and support for the empowerment of the law; and (ii) may also promote immediate and long-term decision acceptance. Tyler (2003:308) defined legitimacy as “a quality possessed by an authority, a law or an institution that leads others to feel obligated to obey its decisions and directives”. In the process-based model, the concept of procedural justice comprises two distinct qualities: the *quality of decision-making* and the *quality of interpersonal treatment* (Sunshine and Tyler, 2003). The quality of decision-making incorporates notions of neutrality, consistency, transparency and impartiality (Paternoster et al., 1997), while the quality of interpersonal treatment encompasses concepts of dignity, respect and participation (Tyler, 2003:289-301). Unlike Hough et al.’s (2013) and Bottoms and Tankebe’s (2012) legitimacy models, Tyler’s procedural justice and legitimacy theory did not incorporate the dimensions of distributive

fairness and effectiveness, only including these antecedents in empirical studies to control for their effects on legitimacy and compliance and cooperation.

A number of perceptual studies conducted in a range of countries (USA, Australia, Jamaica, the Netherlands and Slovenia) and in a variety of criminal justice contexts, in particular police (Murphy, Hinds and Fleming, 2008; Reisig, Tankebe and Mesko, 2012, Sunshine and Tyler, 2003; Tyler, Callahan and Frost, 2007), courts (Caldeira and Gibson, 1995; Tyler, Casper and Fisher, 1989), prisons²¹ (Beijersberge et al., 2015; Reisig and Meško, 2009) and taxation or regulatory contexts (Murphy, 2005; Murphy, Tyler and Curtis, 2009), have provided full or partial support for the Tylerian process-based model of regulation by showing that (i) procedural justice is the main driver of legitimacy rather than distributive fairness or effectiveness, (ii) legitimacy affects compliance and cooperation more than distributive fairness or effectiveness and (iii) procedural justice has a greater impact on compliance and cooperation than distributive fairness or effectiveness.²² As can be seen in Table 1 in Appendix 1 most studies testing Tyler's procedural justice and legitimacy model do not examine whether it is perceived legitimacy or perceived deterrence that has the greatest impact on compliant or cooperative behaviour; those that do are mostly confined to the policing context (Hertogh, 2015; Muratbegović, Vujović, & Fazlić, 2014; Sunshine and Tyler, 2003; Tankebe, 2009a; Tyler, 1990; Tyler and Fagan, 2008).²³ These studies have generally found that legitimacy has a greater impact on compliance and cooperation than perceptions of deterrence. In comparison to the policing literature, few studies have tested Tyler's model in regulatory, workplace or organisational contexts to examine whether it is legitimacy or deterrence considerations that have the greatest impact on compliance and cooperation. I will review these studies further below.

In Tyler's research and in studies inspired by his theoretical framework, legitimacy has primarily been conceptualized and measured solely as an obligation to obey (Hinds and Murphy, 2007; Reisig and Lloyd, 2009), as a combination of an obligation to obey and support (Tyler, 1990) or as an obligation to obey and trust (Gau, 2011; Reisig, Bratton and Gertz, 2007; Tyler, Schulhofer and Huq, 2010). In some studies, cynicism about the law (Tyler and Huo, 2002), affective feelings towards authorities (Sunshine and Tyler, 2003),

²¹ In the prisons context (and *separately* from Tyler) Sparks, Bottoms and Hay (1996) and Liebling (2004) have demonstrated the importance of procedural justice in achieving order.

²² Although empirical research in various countries and a range of criminal justice contexts have found that procedural justice is the main driver of legitimacy and of compliant and cooperative behaviour some studies have cast doubt on that association (see Kim, Ra and McLean, 2019; Tankebe, 2009a; Sun et al., 2017).

²³ Some studies include measures of number of prior convictions (Beijersberge et al., 2015) and previous punishments (Kim, Ra and McLean, 2018).

identification with the police (Tyler and Fagan, 2008) and normative values (Reisig and Bain, 2016; Tyler, Fagan and Geller, 2014; Tyler and Jackson, 2014) have been included as components of legitimacy, along with the central concepts of obligation to obey and trust.

Hough et al. (2013; see also Jackson et al., 2011) expanded Tyler's conceptualization of legitimacy by drawing on Beetham's (1991) three criteria of legitimacy (lawfulness, shared values and consent) to conceptualize and measure legitimacy as having three sub-dimensions: obligation to obey, legality and moral alignment. Similarly, Jackson et al. (2012) drew on Tyler and Beetham to conceptualize and measure legitimacy in terms of an obligation to obey and moral alignment. Both Hough et al. (2013) and Jackson et al. (2012) tested their conceptualizations of legitimacy *vis-à-vis* the outcome of self-reported offending behaviour by extending Tyler's procedural justice theory to the policing context (see Table 2 in Appendix 1). In so doing and in contrast to most studies within Tyler's procedural justice framework, both Hough et al. (2013) and Jackson et al. (2012) expressly included perceived risk of sanctions in their analytical models (see Table 1 Appendix 1).

Hough et al. (2013) hypothesised that trust in justice institutions (conceptualized as trust in procedural fairness, trust in effectiveness and trust in distributive fairness) would foster legitimacy (measured as moral alignment, obligation to obey and lawfulness), in turn resulting in an increase in compliance with the law. Hough et al. (2012) also hypothesized that trust in police effectiveness affects perceived risk of sanction (assessed by asking participants their perceptions of the likelihood of their being caught and punished), in turn leading to compliance. Using the European Social Survey (ESS) to test their extended procedural justice model among a sample of 52,041 individuals, Hough et al. (2013:341) found that in all 26 countries included in the study, "trust in procedural justice was the strongest and/or most consistent predictor" of the obligation to obey component of legitimacy. Similarly, trust in procedural justice was the most significant predictor of moral alignment. However, in contrast to the other dimensions of legitimacy, the ESS data indicated that trust in distributive justice was a significant predictor of the legality dimension of legitimacy. Focusing on compliance with the law as an outcome of their conceptualization of police legitimacy, Hough et al. (2013) found that while the sub-dimension of legitimacy (perceived obligation to obey) had no effect on offending behaviour, the sub-dimensions of police legitimacy (perceived lawfulness ($b = -0.12$; $p < 0.001$) and moral alignment $b = -0.11$; $p < 0.001$)) and perceived risk of sanction ($b = -0.12$; $p < 0.001$) were all associated with

reductions in offending behaviour, with perceived lawfulness and perceived risk of sanctions having the same effect.

Jackson et al. (2012) tested a model similar to that of Hough et al. (2013) also in the policing context. Jackson et al. (2012) hypothesised that trust in effectiveness and trust in procedural justice leads to legitimacy (measured as an obligation to obey and moral alignment), in turn fostering compliance with the law either directly or indirectly through the mediating variable of obligation to obey the law. Similar to Hough et al. (2013), Jackson et al. (2012) hypothesised that trust in effectiveness fosters perceived risk of sanction (also measured by asking participants how likely they thought they would be caught and punished), in turn leading to compliance with the law. Using data from the National Policing Improvement Agency (NPIA) survey with a sample of 937 adults in England and Wales, Jackson et al. discovered, akin to Hough et al. (2013), that the sub-dimension of legitimacy (moral alignment) had a statistically significant effect on the reduction of offending behaviour ($b = -0.23$; $p < 0.001$). In contrast to Hough et al.'s (2013) results, Jackson et al. found that the sub-dimension of legitimacy (obligation to obey the police) and the perceived risk of sanction did not have a statistically significant effect on compliance with the law.

Although Hough et al.'s (2013) and Jackson et al.'s (2012) (see also Bradford, Hohl, Jackson and MacQueen, 2015) legitimacy models included deterrence variables, no study has tested their conceptualizations of legitimacy in organisational, workplace or regulatory contexts in this way.

Bottoms and Tankebe (2012, 2017) drew on Beetham's (1991) and Coicaud's (2002) same tripartite conceptualization of audience legitimacy and Williams' (2005) basic legitimation demand to propose a revised multidimensional model of legitimacy that went beyond Tyler's process-based model. In terms of this model, Bottoms and Tankebe (2012, 2017; see also Tankebe, 2013) hypothesized that the concept of legitimacy (comprising the dimensions of lawfulness, procedural justice, distributive fairness, effectiveness) may directly affect behaviour or indirectly lead to compliance or cooperation through the mediating variable of obligation. As can be seen in Table 3 in Appendix 1, two studies (one using survey data from London residents and the other with data collected from the USA and Ghana) have provided support for the Bottoms-Tankebe (2012) framework in the policing context (Tankebe, 2013; Tankebe, Reisig and Wang, 2016),²⁴ but neither of these studies included deterrence variables. In a very recent study, Tankebe (2019) acknowledged the

²⁴ The Ghana data, however, showed that while legitimacy was significantly related to compliance with the law, obligation to obey did not mediate the relationship between legitimacy and compliance (Tankebe et al., 2016).

failure of policing legitimacy literature to take deterrence variables into account when analysing the effect of legitimacy on compliance and cooperation. Seeking to fill this gap, Tankebe (2019a) simultaneously regressed three sub-components of the Bottoms-Tankebe model (effectiveness, procedural justice and lawfulness) and perceptions of deterrence (risk of punishment and perceptions of severity of punishment) on intentions to cooperate. Using a sample of 530 young adults at a Ghanaian university, Tankebe found that experiences of police unlawfulness displayed significant and negative effects on cooperative intentions, perceptions of certainty of punishment exhibited positive and significant impact on cooperative intentions ($b = -0.090$; $p < 0.01$ vs. $b = 0.321$; $p < 0.001$) and perceptions of the severity of punishment had no effect.

To summarise, all three models have sought to explain compliance with the law and cooperation with legal authorities, yet the route towards the dependent variable of behaviour differs. In the Bottoms-Tankebe model legitimacy is an independent variable that may impact the dependent variable of behaviour (whether directly or indirectly through the mediating variable of obligation to obey), but in the Tylerian process-based model and in Hough et al.'s model legitimacy is the mediating variable which affects compliance and cooperation. Whereas in the Bottoms-Tankebe beyond procedural justice model the dimensions of procedural justice, effectiveness and distributive justice and lawfulness are *components* of legitimacy, in the Tylerian process-based model and in Hough et al.'s model procedural justice, effectiveness and distributive fairness are *antecedents* of legitimacy. To reiterate, most studies that test Tyler's, Hough et al.'s (2013) and Jackson et al.'s (2012) legitimacy models incorporating deterrence variables have been tested in the policing context. Furthermore, the Bottoms and Tankebe (2012, 2017) model (which did not include deterrence variables) was only tested in the policing context and only one study (Tankebe, 2019a) included deterrence variables (also in the policing context).

Having briefly described three legitimacy models in criminology that seek to explain compliance with the law and cooperation with legal authorities and which compare legitimacy and deterrence factors, I wish to focus on some studies that operationalize legitimacy and deterrence in organisational, regulatory and taxation contexts in order to explain compliant and cooperative behaviours.²⁵ Table 1 presents a list of these studies, divided according to context, sample size, legitimacy index dimensions, deterrence variables,

²⁵ Kastlunger et al. (2013), Hofmann et al. (2014), Gobena and Van Dijke (2016), and Hofmann et al. (2017) distinguish between legitimate and coercive power. Coercive power, however, is not the same as deterrence as it does not measure perceptions of severity and of certainty of punishment but rather perceptions of whether authorities use coercive measures.

rule-following behaviour and findings comparing legitimacy and deterrence on behaviour. Table 1 shows that while in a few cases deterrence factors had a more significant effect on rule-following behaviour than legitimacy, in general legitimacy had a stronger effect on rule-following behaviour than did deterrence. From Table 1 it is evident that although the measurement of the concept of legitimacy varies somewhat across studies, most measure legitimacy in terms of obligation to obey.

Table 1. Legitimacy and rule following actions

Author (s)	Context	Sample	Legitimacy scale dimensions	Deterrence variables	Rule following actions	Findings comparing legitimacy and deterrence
Tyler and Blader (2000)	Workplace	<i>N</i> = 404 employees	Obligation to obey	Unclear how perceptions of sanction risk were measured.	Compliance In-role behaviour Deference Extra-role	Sanction risk had a greater impact on compliance than legitimacy ($b = .22$; $p < .001$) vs. $b = .19$; $p < .001$). However, legitimacy was a more significant predictor than sanction risk for deference ($b = .43$; $p < .001$) vs. $b = .14$; $p < .01$). While legitimacy had a significant effect on extra-role behaviour ($b = .10$; $p < .05$), sanction risk had no significant effect. Neither risk of sanction nor legitimacy had any significant effects on in-role behaviour
Tyler and Blader (2005)	Workplace	Sample 1 <i>N</i> = 1,350 employees with a U.S. division of a large multinational financial services company	Obligation to obey	Perceived likelihood and perceived severity of punishments	Compliance Deference Rule-breaking	Legitimacy has a significant impact on compliance with organisational policies ($b = .29$; $p < .001$), deference to organisational policies ($b = .29$; $p < .001$) and on rule-breaking ($b = -.10$; $p < .05$). Deterrence variables had no significant impact.
		Sample 2 <i>N</i> = 4,430 employees of various companies	Obligation to obey	Perceived likelihood and perceived severity of punishments	Compliance Deference Rule-breaking	Legitimacy and likelihood of punishment had the same has a significant impact on compliance with organisational policies ($b = .32$; $p < .001$). Perceptions of severity of punishment also had a significant effect on compliance but this was less than legitimacy and certainty ($b = .03$; $p < .001$)

						Legitimacy had a greater impact that likelihood of punishment on deference to organisational policies ($b = .46$; $p < .001$ vs. $b = .15$; $p < .001$) with severity having no significant effect. And for rule-breaking, legitimacy had a more significant impact than certainty and severity of punishment ($b = -.26$; $p < .001$ vs. $b = -.11$; $p < .001$ vs. $b = -.02$; $p < .05$).
Murphy, Bradford and Jackson (2016)	Taxation	$n = 359$ tax offenders	Obligation to obey	Risk of sanction was measured with a single item which asked participants about the likelihood of getting caught.	Compliance	While perceptions of legitimacy increased tax compliance, perceptions of the risk of sanction reduced tax compliance ($b = .16$; $p < .01$ vs. $b = -.13$; $p < .05$) with legitimacy demonstrating a more statistically significant effect than deterrence
Rorie et al. (2018)	Regulatory	Offending scenarios $n = 879$ professionals and managers knowledgeable about environmental regulation	Adequacy of law Obligation to obey	As a control variable. Contained measures for formal and informal deterrence. Formal deterrence was measured with two scales. The first measured perceived certainty/chance of formal sanctions. The second measured the perceived severity of formal sanctions.	Offending intentions	Adequacy of the law did not predict offending intentions. Participants who felt that they should comply with a law even if went against their personal morality then they were less likely to ignore a compliance order ($\beta = -.1184$; $p < .01$) but this had no effect on discharge of toxins or mislabelling waste. Those who felt that they should comply with the law so long as the law go against their personal morality were also less likely to disobey a compliance order ($\beta = -.911$; $p < .01$) but this item had no effect on other forms of offending. The statement measuring the extent to which an individual should act as others do had no effect on offending intentions. For the formal deterrence variables likelihood of formal sanctions had no effect on offending scenarios, and perceptions of severity only had a significant negative effect on discharging toxins.

Although legitimacy has been found to predict compliance and intention to offend, the association is tempered by two methodological limitations. First, a perceived obligation to obey should not be equated with legitimacy, because obligation is a broader concept (Bottoms and Tankebe, 2012; Tankebe, 2013). Individuals, as noted by Bottoms (2002), may feel duty-bound to obey owing to instrumental or normative reasons or even out of habit or dull compulsion. Conflating obligation with legitimacy obscures a proper measurement of legitimacy and distorts the relationship between legitimacy, deterrence and compliance and cooperation. Accordingly, and as noted by Tankebe (2013), an obligation to obey should be treated as a dependent variable, which may occasionally be explained by legitimacy and not as a component of legitimacy. Research conducted by Johnson et al. (2014) has confirmed this assertion. How should the legitimacy of financial regulators be measured in order to adequately explain rule-following behaviour while comparing it to deterrence factors? As explained in Chapter 1, the multidimensional character of legitimacy is uncontested in the literature (Suchman, 1995; Tankebe, 2013). Moreover, a convincing argument can be made to measure financial regulatory legitimacy in terms of procedural justice, distributive justice, effectiveness and lawfulness (which were identified as antecedents or components of legitimacy in the models above) by using scales derived from the aforementioned studies, especially given that the theoretical regulatory and organisational literature (Baldwin, 1996; Dowling and Pfeffer, 1975; Majone, 1996, 1997, 1998; Prosser, 2010; Scott, 1995; Suchman, 1995) recognizes similar concepts. However, such an approach would suffer from the second methodological limitation acknowledged by Tankebe (2014) in the policing context. The abovementioned studies adopt a normative approach to measuring legitimacy by determining *a priori* the dimensions that constitute legitimacy and subsequently by adapting scales from other studies for use in the particular context (Hinsch, 2008). Williams (2005) argued that when a power-holder *A* claims authority over audience *B*, *A* must justify or explain its claim to power (the legitimization story) by meeting the BLD. Therefore, the BLD is a demand by audiences that the power-holder should provide an adequate justification of its claim to rule. Williams suggests that *B* will then assess the legitimization story and if the BLD *makes sense* (MS) to *B* then *A*'s claim to power will be accorded legitimacy. In exploring what MS to audiences, Williams (2005:186-187) maintained that we “need concepts which are rooted in more local practices, our culture, and our history” and thus his analysis of legitimacy rejects political moralism (normative theories of legitimacy which stress the priority of the moral over the political by setting out universal moral principles to assess the state's right to rule)

and pursues political realism. He contends that by examining legitimacy with antecedent moral views, political moralism “mistakes the contextual judgments about what makes sense with the basic conditions of satisfying the BLD”. (Hall, 2015:4). This implies that what MS in a financial regulatory context reflects a range of variables that cannot be adequately captured by adopting or adapting scales from previous studies. Moreover, given that legitimacy dialogues may differ according to the particular context, the use of a normative approach to measuring regulatory legitimacy by drawing on scales from previous studies might not adequately capture the meaning of legitimacy in the financial regulatory context (Beetham, 1991; Tankebe, 2013). As previously noted, to resolve these methodological limitations, I employed the social scientific approach proposed by Tankebe (2014) in the policing context which had been previously utilized by Liebling (2004) to develop the Measuring Quality of Prison Life survey to assess a prison’s “internal legitimacy”. The aim was to develop scales to measure operators’ perceptions of MFSA legitimacy. This social scientific approach involved a mixed-methods research design that incorporated an inductive and a deductive stage. The inductive stage involved interviews with operators licensed by the MFSA. The objective of this stage was to identify what legitimacy means to Maltese regulatees, that is, what operators expect from the MFSA, what their BLDs are, or in Liebling’s (2004) language, what matters to operators licensed by the MFSA and why. The deductive stage entailed the development and administration of a regulatory legitimacy survey informed by the interviews. Through exploratory and confirmatory factor analysis the deductive stage identified a multi-dimensional legitimacy scale comprising the following three sub-scales that reflect the BLDs of operators within the Maltese financial services context: rule of law, distributive fairness and responsiveness. The three-factor multidimensional model was then employed to explore the association between legitimacy and positives attitudes to compliance while comparing legitimacy to deterrence and to explore whether obligation to obey mediates the relationship between perceptions of MFSA legitimacy and positive attitudes to compliance. More will be said about the research methods used in this study in Chapter 4, but for now I wish to provide a description of the research context. Legitimacy considerations do not occur in a vacuum and are affected by national and international events as highlighted in Chapter 3 below.

3

Research Context

3.1 Description of context

The fieldwork conducted for this PhD was carried out on the island of Malta. While the qualitative phase of the research (conducting the interviews) took place between April 2017 and August 2017, the quantitative phase (distributing the regulatory legitimacy survey) was undertaken between July 2018 and September 2018. Malta is part of the Maltese archipelago, which also comprises the smaller islands of Gozo and Comino and the even smaller islands of Cominotto, Filfa, St. Paul's Islands and Manoel Island. Malta is situated in the central Mediterranean, south of Sicily and north of Libya. Malta has been inhabited since approximately 5200 B.C. and has been occupied or colonised by various groups including the Phoenicians (800 B.C.), the Carthaginians (480 B.C.), the Romans (218 B.C.), the Byzantines (395 A.D.), the Arabs (870 A.D.), the Normans (1090 A.D.), the Knights of St. John (1530 A.D.), the French (1798 A.D.) and the British (1800 A.D.). Malta gained its independence from Britain in 1964, became a republic in 1974, acceded to the EU in 2004 and became a member of the Eurozone in 2008.

In terms of surface area, Malta is the smallest country in the EU ("Europe in the EU", n.d.) and with a population of 475,501 at the end of 2017 it also has the EU's smallest population (National Statistics Office Malta, 2018). With a population of approximately 1,562 individuals per square kilometre, it is the seventh most densely populated country in the world ("Malta Population 2019", n.d.). Malta has two official languages: Maltese and English. Malta's political system is a single-chamber parliamentary democracy whose members are elected on the principle of proportional representation by means of a single transferable vote. The head of government is the Prime Minister, while the head of state is the President.

In 2016, the year when this PhD research commenced, the top contributors to the Maltese economy were first, wholesale and retail trade, transport, accommodation and food

services (21% of GDP), second, public administration, defence, education, human health, and social work activities (18% of GDP) and third, administrative and support services (13%) (“Malta Overview”, n.d.). The fourth most important sector was financial services. This sector employs around 10,000 individuals and contributes approximately 11% to GDP (MFSA Annual Report, 2017). According to a recent International Monetary Fund (IMF) report, the Maltese financial services sector is large relative to the rest of its economy (IMF Country Report No. 19/69). The most significant players in the Maltese financial services sector are the Maltese banks: as of 2019 there are 25 banks, six of which account for half of system assets, 95% of resident deposits and 98% of loans to residents (IMF Country Report No. 19/69).

3.2 The Malta Financial Services Authority

The MFSA regulates financial services in Malta.²⁶ It is a fully independent public body established by Act of Parliament: the Malta Financial Services Authority Act (Chapter 330 of the Laws of Malta). In 2002, the MFSA became the single regulator of financial services in Malta by subsuming the supervisory powers of the Central Bank of Malta, the Malta Stock Exchange and the Malta Financial Services Centre. It licenses, regulates, monitors and supervises the following financial services operators: (i) investment services entities and collective investment schemes; (ii) insurance and pensions undertakings; (iii) credit and financial institutions; (iv) trusts; and (v) company service providers. From 1 November 2018 (following the completion of the research) the MFSA also began regulating virtual financial assets (“MFSA Virtual Financial Assets”, n.d.; Virtual Financial Assets Act (Chapter 590 of the Laws of Malta)). Until 2018, the MFSA additionally housed the Registry of Companies and the Listing Authority. To fulfil its regulatory goals, the MFSA is legally empowered to

²⁶ Another institution of particular importance in Malta’s financial sphere is the Financial Intelligence Analysis Unit (FIAU). In terms of article 16 of the Prevention of Money Laundering Act (Chapter 373 of the Laws of Malta) the FIAU is responsible for collecting, collating, processing, analyzing and disseminating information with the aim of countering money laundering and the financing of terrorism. Significantly the FIAU, by article 16 of the Prevention of Money Laundering Act, is responsible among other things for: (a) receiving and analyzing suspicious transaction reports (STRs) from subject persons; (b) forwarding the SRT report to the Commissioner of Police if there is a reasonable suspicion of money laundering; (c) monitoring compliance of money laundering legislation and regulation by subject persons; (d) instructing subject persons to take such steps that the FIAU considers appropriate to facilitate money laundering analysis; (e) gathering data on Malta’s financial and commercial sectors with the aim of detecting areas that are at risk of money laundering; (f) compiling and disseminating such data and issuing guidelines on the prevention, detection, analysis, investigation, prosecution and punishment of money laundering; (g) promoting and providing anti-money laundering training to employees of subject persons; (h) advising and assisting individuals and companies to set up anti-money laundering mechanism; and (i) reporting to the Commissioner of Police any activities that it suspects involves money laundering or criminal activity. Although the FIAU is a critical player in the Maltese financial services regulatory environment, this research focuses only on the MFSA.

issue, refuse and revoke licences, to establish rules setting out the duties of licence-holders and the persons involved in the management thereof, to conduct investigations into alleged breaches of financial services legislation and to impose penalties for infringements of financial services legislation without recourse to a court hearing.

During the process of writing up this PhD thesis, the structure of the MFSA changed. Up to 2018, one of the main organs of the MFSA was the Co-ordination Committee which was responsible for overseeing policy implementation within the Authority. The Co-ordination Committee functioned as the bridge between the MFSA's Board of Governors (headed by the Chairman) and the Supervisory Council, the Enforcement Unit, the Legal and International Relations Unit, the Board of Management and Resources and the Registry of Companies. I wish to focus on the functions of the Board of Governors, Supervisory Council and the Enforcement Unit, because these are the sub-organs of the MFSA that carry out its main functions. The Board of Governors is appointed by the Prime Minister and is responsible for setting out the objectives, strategies and policies of the Authority (Annual Report, 2016, 2018). Until April 2018 it was headed by a Chairman who took an executive role. In April 2018 the Chairman's role was split into two: a non-executive Chairman (appointed by the Prime Minister) and a Chief Executive Officer (appointed by the Board of Governors) ("MFSA appoints new Chairman and CEO", 2018).

The Supervisory Council was responsible for overseeing the MFSA's main functions and was composed of the following units: (i) Authorisations; (ii) Conduct Supervision; (iii) Banking Supervision; (iv) Insurance and Pensions Supervision; (v) Securities and Markets Supervision; and (vi) Regulatory Development. The Authorisations Unit was responsible for processing all licensing applications submitted by individuals and companies that required authorisation by the MFSA to provide financial services in or from Malta, applications for changes in control and appointment of approved persons, waivers and exemptions, and passporting applications. The Conduct Supervision Unit was responsible for supervising the business conduct of licensees. This Unit supervised how licensees designed their products and services and how operators interacted with consumers, seeking to ensure that operators provided fair, honest, transparent and professional services to consumers of financial services. The remaining supervisory units were responsible for the prudential supervision of licenced firms through on-site and off-site inspections to ensure that the firms abided by their statutory duties, regulatory responsibilities and licensing conditions.

The Banking Supervision Unit was responsible for supervising all local banks and financial institutions. Since the Single Supervisory Mechanism was implemented in 2014, banks that are designated as Significant Institutions (systemically important for the economy of Malta) are supervised by a Joint Supervision Team (JST) composed of European Central Bank (ECB) officials and MFSA staff. Banks that are designated as Less Significant Institutions are directly supervised by the MFSA, “with additional reporting obligations to DG Micro-Prudential Supervision III (DG MS III) of the ECB under the SSM” (MFSA Annual Report 2016:41). The Banking Supervision Unit was also responsible for transposing EU legislation and guidelines issued by the ECB (MFSA Annual Report, 2018).

The Insurance and Pensions Supervision Unit supervised insurance undertakings, re-insurance undertakings, insurance intermediaries, retirement schemes, retirement funds and retirement plan service providers, including business carried out in an EU Member State or European Economic Area (EEA) State, either through establishment or under the freedom to provide services. The Securities and Markets Supervision Unit was charged with overseeing the supervision of investment services entities, collective investment schemes, fund management and related fund services operations, admissibility to listing on recognised investment exchanges, trustees and oversight of financial markets. The Regulatory Development Unit’s function was to carry out research and implement cross-sectoral policies as well as being responsible for financial stability and macro-prudential supervisory issues. The Enforcement Unit investigated operators who were suspected of having committed egregious compliance failures and misconduct, market abuse, breach of listing rules or any other serious breaches of the financial services legislation and regulation. The Unit also investigated whether persons were carrying out licensable financial services activities without possessing the necessary licence or authorisation (MFSA Annual Report, 2018).

In 2019, owing to the events further described below, the Maltese Parliament approved amendments to the MFSA Act and to the Financial Markets Act which, according to the MFSA’s latest Annual Report (2018:22), “will strengthen and streamline the MFSA’s decision-making processes, and boost the supervision of compliance to prevent money laundering and the financing of terrorism”. In implementing these changes, the MFSA established: (i) an Executive Committee; (ii) an Enforcement Decisions Committee; (iii) an Enforcement Directorate; (iv) a Financial Crime Compliance Team; (v) an Anti-Money Laundering and Combating the Financing of Terrorism Committee (AML/CFT); (vi) a Risk Committee; and (vii) a Financial Services Stakeholder Panel (MFSA Annual Report, 2018).

The Executive Committee has now absorbed the functions previously assumed by the Co-ordination Committee, the Supervisory Council and the Board of Management and Resources. The Enforcement Decisions Committee seeks to separate the supervisory and enforcement functions, is composed of individuals from outside the MFSA and is obliged to act independently from the MFSA's Executive Committee. The Enforcement Directorate is charged with carrying out investigations, enforcing those decisions and making recommendations for the Enforcement Decisions Committee to take into account when making its decisions. The AML/CFT is intended to function as a forum for harmonising and coordinating anti-money laundering investigations and processes and advises the Executive Committee on process improvements pertaining to AML/CFT procedures. The primary function of the new Risk Committee is to aid the Executive Committee and the Board of Governors with establishing the extent of the MFSA's risk appetite and risk management policy. The MFSA's new Regulatory Committee is responsible for co-ordinating regulatory, authorisation and supervisory matters. Finally, the Financial Services Stakeholder Panel seeks to provide a forum that engages in dialogue with the industry.

3.3 Political and regulatory challenges

The Maltese financial regulatory climate was fraught with challenges throughout the interview and the survey stages. I will begin with the challenges during the qualitative stage.

3.3.1 Political and regulatory challenges in the qualitative stage

Between 15 and 21 April 2017, the investigative journalist Daphne Caruana Galizia (DCG) published a series of articles on her "Running Commentary" blog and made some very serious allegations: that documents contained in a safe in Pilatus Bank (an MFSA-licensed credit institution) showed that the Maltese Prime Minister's wife (Michelle Muscat) was the ultimate beneficial owner of the mysterious Panamanian company Egrant Inc; that Pilatus Bank was employed as a money-laundering vehicle by Azerbaijani and Maltese Politically Exposed Persons (PEPs) (presenting a heightened risk of being involved in criminal activities, in particular corruption and money laundering and its predicate offences); and that the MFSA failed to take any action following an on-site inspection conducted at Pilatus Bank in 2015 that found that Maltese and Azerbaijani PEPs held accounts there. In her articles, DCG also raised questions about the Bank's Chairman, Seyed Ali Sadr Hasheminejad, an

Iranian national with multiple passports who applied for a banking licence in his early thirties without having had any banking experience or expertise.

A few hours after the Egrant allegations were published, the Bank's Chairman and risk manager were filmed by NET NEWS leaving via the Bank's emergency exit carrying two suitcases – raising suspicions that the bags contained documents relating to accounts held by Maltese and Azerbaijani PEPs. While these events were unfolding, the Police Commissioner was filmed enjoying a meal with friends at a restaurant and refused to comment on the Egrant allegations. The following day, Pilatus Bank's offices were raided by the police and a magisterial inquiry into the Egrant allegations was requested by the Prime Minister. These events prompted members of the general public to express their anger and frustration on social media. In particular, members of the public were outraged at the failure of the police authorities to promptly act on DCG's allegations.

In response, the MFSA released a statement that the process issuing Pilatus Bank's licence had been carried out in accordance with the applicable legislation, that the Bank had been and continued to be subject to prudential and supervisory measures and that as an independent authority the MFSA had cooperated and would continue to work with the competent authorities. On the same day, the Institute of Financial Services Practitioners (IFSP, 2017) also issued a statement in which it argued that these events would blight Malta's reputation and render the country an unattractive choice for international investors. Significantly, the IFSP was "particularly concerned that the ethical fibre of the entire financial services industry in Malta was being called in question in such a facetious manner" (IFSP, 2017). Further allegations surfaced: that the son of an Angolan dictator held an account at Pilatus Bank and that the Prime Minister's chief of staff received kickbacks from a partner of Nexia BT, an audit and accounting firm, on the sale of Maltese passports. On 1 May 2017, as a direct response to the allegations made by DCG, the Maltese Prime Minister called a snap election for 3 June. More will be said about how these events affected the research strategy, especially the sampling process, in Section 4.1.3.1 below.

3.3.2 Political and regulatory challenges in the quantitative stage

The events described in this section occurred following the completion of the interviews, during the interview data analysis phase, while developing the survey and prior to distributing the survey. On 16 October 2017, while facing a defamation suit in a US court filed by Pilatus Bank's Chairman, Ali Sadr Hasheminejad, DCG was assassinated by a car

bomb. On 23 October 2017, the European Commission (EC) requested the European Banking Authority (EBA) to investigate allegations that the MFSA and the Malta Financial Intelligence Analysis Unit had breached EU law by failing to effectively supervise Pilatus Bank in relation to its anti-money laundering and countering the financing of terrorism obligations (an issue to which I will return soon). Moreover, on 20 March 2018 the Department of Justice (2018) reported that Mr Hasheminejad had been arrested on 19 March 2018 in the U.S. for “his alleged involvement in a scheme to evade U.S. economic sanctions against Iran, to defraud the United States, and to commit money laundering and bank fraud”. In terms of the bill of indictment, Mr Hasheminejad was charged with participating in a scheme in which more than \$115m in payments for a Venezuelan housing complex were illegally funnelled through the U.S. financial system for the benefit of Iranian individuals and entities. Specifically, Mr Hasheminejad was charged with six counts as follows: conspiracy to defraud the USA; conspiracy to violate the International Emergency Economic Powers Act; bank fraud; conspiracy to commit bank fraud; money laundering and conspiracy to commit money laundering. These charges carry a maximum prison term of 125 years. The following day in Malta, washing machines were placed in front of the offices of the MFSA and of Pilatus Bank. As symbols of money laundering, the washing machines suggested that the MFSA failed in its supervisory duty to prevent those crimes.

In response to these allegations, on 21 March 2018 the MFSA removed Mr Hasheminejad as Director of the Bank, ordered the Bank to cease its operations and appointed Mr Lawrence Connell as the “competent person” to take charge of the Bank. Then, on 30 June 2018, the MFSA announced that it had filed a formal recommendation with the ECB to withdraw the Bank’s licence. On 11 July 2018, the EBA, following the request by the EC (mentioned above) to investigate the MFSA and the FIAU, found “that the FIAU failed to conduct an effective supervision of Pilatus Bank due to a number of failures, including procedural deficiencies and lack of supervisory actions by the FIAU after its decision to close the case without imposing any sanctions on the bank” (EBA, 2018). Once the survey stage had been concluded at the end of September 2018, more significant regulatory events took place. On 5 November 2018, the MFSA published a notice informing the public that the ECB had withdrawn the licence of Pilatus Bank. In February 2019, the IMF published a report containing a series of recommendations aimed at the MFSA that seek to strengthen the Authority’s risk analysis framework, render the MFSA more independent, bolster its

supervision in the banking and insurance sectors with a focus on money laundering and improve the MFSA's crisis management capabilities (IMF Country Report No. 16/69).

4

Research Methods

The social-scientific approach to developing a regulatory legitimacy scale involved two stages. The first stage involved an inductive approach through the use of Appreciative Inquiry (AI) interviews. AI was employed to discover the BLDs of financial market participants. The second stage of the research comprised a deductive approach entailing the development and administration of a regulatory legitimacy survey informed by AI. The research design was therefore a two-stage process, which began with a qualitative approach followed by a quantitative approach. The quantitative stage of the research also explored whether legitimacy or deterrence factors have the greater impact on positive attitudes to compliance. I will begin with the qualitative stage.

4.1 Qualitative stage

4.1.1 Appreciative Inquiry interviews

Liebling (2004) utilized Appreciative Inquiry (AI) to identify what mattered to prisoners and why. AI was then used as a basis to develop the Measuring Quality of Prison Life Survey. This method starts with exercises aimed at imaginative conversations and develops into loosely structured interviews (Liebling, 2004). AI is somewhat similar to symbolic interactionism and grounded theory in that it is: (a) mainly qualitative and creative; (b) concerned with theory generation and the creation of sensitizing concepts; and (c) concerned with lived experience, narrative and meaning (Liebling, et al. 2012). This method was deemed appropriate to identify the BLDs of, or what mattered to, financial services participants for seven epistemological reasons (see Appendix 2 for Appreciate Inquiry Interview Schedule).

First, AI is a research strategy predominately aimed at examining organizations (including regulators) (Liebling, 2004). It has been used as a method of achieving constructive organizational change in governmental bodies such as the UK's National Health Service (NHS) (Liebling, Price and Elliot, 1999) and international non-governmental organizations (Johnson and Cooperrider, 1991).

Second, AI is grounded in social constructionism – a theory that addresses the question of what meaning individuals give to concepts (Watkins, Mohr and Kelly, 2011). Since this study seeks to understand what legitimacy means to operators AI is considered an appropriate research strategy.

Third, operators (as licensed entities) are involved in a constant dialogue with the MFSA. Given that AI employs generative questions based exclusively on narrative and on memories of specific experience, it was considered an appropriate method within the financial services context (Liebling, 2004).

Fourth, rather than solely focusing on inadequacies, this method also concentrates on best experiences and practices, strengths, accomplishments and peak moments and is, therefore, an appropriate tactic for encouraging participants to imagine the MFSA at its best, that is, at the pinnacle of its legitimacy (Bushe, 1999; Liebling, 2004).

Fifth, the term “appreciative” underscores the notion that when something increases in value, it “appreciates” (Watkins et al. 2011:22). As Liebling (2004:141) has remarked, the verb “to appreciate” can be interpreted as “to estimate the value of”, “to recognize as valuable”, “to estimate rightly”, “to esteem adequately” or “to form an estimate of worth or quality”. AI, therefore, plays a significant role in the measurement and cultivation of values – it is a useful method to identify the BLDs of regulatees, as well as their expectations and what matters to them (Bushe, 1999; Hulley, Liebling and Crewe, 2011).

Sixth, given that certain operators may have had negative experiences with the MFSA, by asking participants to focus on their “peak experiences” or “what is best,” AI transcends negative emotions, permits emotional space, builds trust and makes research participants more comfortable (Liebling et al., 1999).

Seventh, and flowing from the sixth point, AI can help unearth “the darker side of social reality”, negative experiences and problems and can lead to a nuanced understanding of those negativities (Liebling, et al., 1999:76; see also Bushe, 2007; Liebling, Arnold and Straub, 2011). This Aristotelean approach is critical because by appreciating the negative, it is possible to identify the positive (Bottoms and Tankebe, 2012; Johnston, 2011; Liebling, et al., 1999). One can understand this epistemological reasoning through the ideas of C. Wright Mills. Although writing in a different context,²⁷ Mills (2000:213) contended that “[o]ften you get the best insights by considering extremes by thinking of the opposite of that with which you are directly concerned”. Ontological reasons lie behind incorporating positive and

²⁷ Here Mills was actually talking about distilling the positive from the negative.

negative experiences in AI interviews. As Robert Louis Stevenson (1886/2007:61) observed in *The Strange Case of Dr Jekyll and Mr Hyde*, “[i]t was on the moral side, and in my own person, that I learned to recognise the thorough and primitive duality of man; I saw that of the two natures that contended in the field of my consciousness, even if I could rightly be said to be either, it was only because I was radically both”. The ontological implication is that the threads that compose our human nature are two-ended: there is no capacity for good without an equal capacity for evil and one cannot feel joy unless one can also feel despair (Wise, 2011).²⁸

4.1.2 Piloting the interview schedule

The AI interview schedule was piloted among a small sample ($n = 10$) of financial services participants (more is said about sampling in Section 4.1.3.1 below). The purpose of the pilot stage was to determine whether the interview schedule was clear and easily understood. Interviews with these participants showed that the question “What in your view justifies the powers of the regulator?” was ambiguous. It was therefore replaced with the question: “Why do you believe it is right or proper for the regulator to have the powers that it has?”. Two participants (Caesar and Romeo) complained about the length of the interview schedule. When I originally sent the interview schedule to participants I included the follow-up questions. The follow-up questions were excluded from the interview schedule sent to participants prior to the interview and were only included in the researcher’s version. The pilot stage also serendipitously revealed: (a) the power dynamics that were embedded in the interviews (such as arriving late); (b) the need to be flexible (rescheduling meetings either because the participant wished to postpone the meeting or for personal reasons); (c) that interviewees may ask about what other interviewees have said (more will be said about this below); (d) the need to keep in mind public holidays and feasts; (e) that interviewees like to read the questions beforehand to avoid being caught off-guard; (f) that interviewees may be reluctant to answer questions when politics is involved; (g) the need not to show offence where a participant says something offensive. More will be said about aspects (a), (c) and (g) below.

Having discussed the *raison d’être* in employing AI interviews to determine the BLDs of or what matters to MFSA-licensed operators, in the ensuing section I shall discuss

²⁸ These notions are derived from Lao Tzu’s (2006) *Tao te Ching*. Tzu wrote that once we recognise beauty, we must also recognise ugliness and vice versa.

the process of getting in (that is, identifying potential participants), getting on (with participants) and getting out (of the fieldwork setting).

4.1.3 Getting in

Gaining access to a research setting and to research participants or material to collect data is an essential part of the research process. As Cochrane (1998:2124) aptly remarked: “without gaining access, there can be no research.” For some researchers, whether novice or experienced, this process may be fraught with difficulties, while for others it is smooth sailing (Buchanan, Boddy, and McCalman, 1988; Delaney, 2007; Leblanc and Schwartz, 2007; Ostrander, 1993). Gaining access can be divided into three broad stages, each requiring careful planning considerations and each of which may be affected by external events. These steps are as follows: (i) identifying potential participants; (ii) contacting participants; and (iii) securing commitment to participate (Goldman and Swayze, 2012). For this paper, I will merge stages two and three, because in most cases they occurred simultaneously.

4.1.3.1 Sampling

As previously noted, I was interested in identifying the BLDs of, or what mattered to, organisations licensed by the MFSA. Although companies have a distinct legal personality separate from their members and are therefore capable of acting on their own, they are still metaphysical persons. It was therefore essential to identify individuals within the entity who would be in the best position to voice the BLDs of the company. From a legal perspective, according to the Maltese Companies Act (Chapter 386 of the Laws of Malta) and the various Codes of Good Corporate Governance, these individuals would be the members of the board of directors. These persons are legally responsible for: (a) managing the business of the company; (b) its governance; (c) its proper administration; and (d) the general supervision of its affairs (Companies Act). The board also sets the company’s aims, values, and strategies (Code of Good Corporate Governance for Listed Entities and Code of Good Corporate Governance for Investment Companies and Collective Investment Schemes). Primarily, the board of directors acts as the agent of the company and is the principal organ that speaks for it (Davies, 2008). *Prima facie* the board is thus in the best position to voice the BLDs of the entity. However, from informal conversations I had with experienced financial market participants, the board of directors rarely engages in a dialogue with the MFSA. Conducting

interviews with these individuals may not have yielded sufficient data to discover the meaning of legitimacy in the Maltese financial services context, the company's BLDs, what the company expects from the regulator or what matters to it and why. My experience as an associate working in the Corporate and Commercial Department of one of Malta's most prestigious law firms between 2009 and 2012 also revealed that it would have been challenging and time-consuming to speak to the board of directors as this organ typically meets only once or twice per year. It was therefore considered appropriate to identify other individuals within the licensed entity who had been delegated powers by the boards of directors (hence one could say that they are also agents of the company) and who are in regular direct contact with the regulator. These individuals would be persons who occupy critical supervisory and managerial roles, namely chief executive officers (CEOs), chief financial officers (CFOs), chief operations officers (COOs), chief compliance officers (CCOs) and money laundering reporting officers (MLROs). Following informal conversations with an influential, highly qualified and experienced senior partner at one of Malta's top-tier law firms and who is also a non-executive director on the board of one of Malta's largest credit institutions (whom I shall call Caius), I also thought it prudent to speak to lower level employees such as compliance officers and individuals in the legal department of licensed entities, as these individuals have regulator contact with the MFSA. For a number of reasons, Caius additionally recommended that I speak to lawyers who specialize in financial services. First, lawyers are usually the first port of call when licensed operators encounter problems with the MFSA. Second, operators often communicate with the MFSA through or accompanied by their lawyers. Third, prospective licensees often engage lawyers to help in the licensing process (which involves ongoing discussions with and the submission of documents to the MFSA). Fourth, when representing licensed operators, some lawyers tend to identify and associate themselves with their clients. Fifth, many lawyers also serve as directors or managing directors of, or act as external compliance officers for, licensed operators. Sixth, many financial services lawyers work in firms that are licensed to provide trust and trustee services and are also registered with the MFSA to provide corporate services. Caius further recommended speaking to individuals within auditing or accounting firms (for much the same reasons that he recommended speaking to lawyers who specialise in financial services). In particular, these firms are regularly engaged by potential licensees to represent them in discussions with the MFSA during the application stage for a licence, and

where applicants are granted a licence the firms would typically continue to provide auditing or accounting services to them.

The literature on accessing organisational elites suggests a range of ways in which researchers can identify organisations – including trade or business directories, company databases, trade associations, news media, personal contacts, cultivating contacts, conferences, snowball sampling and internet searches (Jones, 2016; Odendahl and Shaw, 2002). In the case of entities licensed by the MFSA, the best starting point was the Financial Services Register (FSR) on the MFSA's website. The FSR contains a list of all licensed organisations (including individuals) divided into nine categories as follows: (i) company service providers; (ii) credit institutions; (iii) financial institutions; (iv) insurance undertakings; (v) notified alternative investment funds; (vi) pensions; (vii) securities and markets; (viii) securitization vehicles; and (ix) trustees and fiduciaries. The FSR suffers from some limitations. It does not always provide the email address of a contact person(s) for licensed operators and in cases where a contact person(s) is listed, the FSR does not usually indicate the individual's role or position in the entity. It may however be possible to identify the individual's role within the operator by conducting an internet search. To identify individuals in supervisory and managerial positions (but not junior level employees/lower ranking employees) it is also possible to access the Registry of Companies (ROC) website by requesting an account. The ROC website contains the details of every licensed entity's shareholders, the composition of the board of directors, its legal and judicial representatives and its company secretary. The ROC website also serves as an online repository for documents submitted to the ROC by the licensed entity. Every year all companies registered in Malta (including operators authorised by the MFSA) must submit an annual report. From this report, it is sometimes possible to identify individuals in supervisory and managerial roles. However, in some cases, the annual report may be out of date because the last version would not have yet been submitted or may have been submitted but not uploaded to the website. In the case of some companies, the annual report is also available through the company's website. Additionally, the company's website may also provide support in identifying potential participants. The corporate directory maintained by Finance Malta is also a useful source for identifying not only licensed entities and individuals in supervisory and managerial roles but also law firms that specialise in financial services as well as entities that provide auditing and accounting services and the critical spokespersons within those

legal, auditing and accounting firms. Similar information in respect of the last three groups can be found on the Institute of Financial Services Practitioners (IFSP) website.

In preparation for the qualitative stage, I obtained a copy of the FSR. For every company on the FSR, I accessed the ROC website and obtained a copy of its annual report. This not only served to identify relevant individuals therein, but also to divide the licensed entities according to their size: small, medium or large. Concomitantly, I drew up, with considerable help from Caius, a list of individuals who met the following criteria: (i) occupied or occupy managerial positions in the Maltese financial services industry, including individuals who provide professional legal, auditing or accounting services to licensed operators; (ii) were known to Caius on a personal or professional level or both; (iii) are considered by Caius to be experienced and knowledgeable in their respective fields; and (iv) are deemed to be honest and trustworthy. On this list I also included some of my own contacts whom I knew on a personal and professional level. During the pilot phase of the qualitative stage, I selected 10 potential participants from the list mentioned above to be interviewed. Once the pilot stage was concluded the plan was to draw a random sample of licensed entities from the FSR as this would enable generalizations to be made from the sample to the populations of interest (Tankebe, 2008) and to enter the field as soon as possible. The aim was to conduct around 40 interviews. The rationale for this number was two-fold. First, this amount should be sufficient to reach saturation (Francis et al., 2010; Guest, Bunce and Johnson, 2006). Second, given that there are six categories of licence-holders (banking, insurance, pensions, securities, trusts and corporate services), with some groups having sub-categories, selecting two entities from each category (and sub-category) would amount to a total of 20 entities and I would then seek to obtain interviews with two individuals from each entity.

This plan had to be revised entirely following the allegations made by DCG during the pilot phase of the qualitative stage (see Section 3.3.1 above). By then, I had already conducted seven pilot interviews. When the allegations surfaced, I became concerned that the temporal closeness (Desmond, 2004) to these events might skew the results of the study and that potential participants might be reluctant to speak to me owing to the intense media coverage. I continued the pilot interviews as planned, only having four left to complete the pilot stage. On 26 April 2017, I conducted two interviews. The first interviewee took place early in the morning with Mercutio, a former non-executive director of a large bank in Malta.

At the end of the interview, I asked whether there was anything he wished to discuss. He replied:

The only thing I can say is obviously the incidents that have been happening in this country recently worry me tremendously. I am speaking more as a citizen here rather than as a person who was involved in the banking [sector]. Because again the mind boggles how a banking licence was given when one sees the type of scrutiny and rigour that was applied to the larger significant banks, at least the one [I was involved in] ... how a banking licence was given to an Iranian national in Malta to sustain 100 clients, some of which are mostly PEPs. Some of which are effectively extremely dubious characters. How that was allowed to happen in this same country with the same regulator which has been so rigorous and correct with the larger bank that I have experience [with]. I cannot reconcile the two.

Later that day I conducted another meeting with Caesar, an ex-member of the senior management of a large bank. We decided to meet outside his place of work. As he walked towards me, I noticed that he was stressed – his cheek muscles were twitching and his eyes had a piercing look. We immediately started talking about the recent allegations surrounding Pilatus Bank. He was visibly irritated and angry about the whole affair and was worried that the claims would cost the MFSA and Malta their reputation, negatively impacting the Maltese economy. His face was contorting with displeasure throughout the interview and he refused to answer some questions about the allegations surrounding Pilatus Bank.

I remember walking out of this interview feeling shocked. This was the second interview I had conducted that day, and this participant was much more vociferous about the events surrounding Pilatus Bank.

Two days after this interview a former employee of Pilatus Bank (the source of most of the previous allegations) testified before the Magistrate leading the inquiry into Egrant. As noted in Section 3.3.1 above and as a direct consequence of the allegations made by DCG, on 1 May 2017 Prime Minister Joseph Muscat called a snap election for 3 June 2017.

At this stage, I felt that a tipping point had been reached. The Pilatus Bank affair (roping in the MFSA) was exponentially politicised with Maltese tribal and partisan politics emerging in full swing (Cini, 2002) – akin to a feud between the Capulets and the Montagues. Media coverage surrounding Pilatus Bank, and by implication the MFSA, was frenzied. It was a period of time where I feared voicing my opinions on the allegations surrounding Pilatus Bank out of fear of being branded either a Nationalist or a Labourite. Owing to these events and feelings, I deemed it prudent to delay the interview stage until about a month after the election and I started the interview stage proper on 5 July 2017. Efforts were made to complete the pilot interviews as early in May as possible. Only two

pilot interviews were conducted in May. The pilot stage would have been concluded on 12 May had I not come down with gastric flu, compelling me to ask Vincentio, the final pilot interviewee, to postpone the interview to 18 May. The reasons behind this stage in strategy were as follows. Had I commenced the interviews in the period before and after the election, I feared that the Pilatus Bank affair would overshadow the purpose of the meetings. I had a feeling that participants would only interpret the questions related to the MFSA in the light of the Pilatus Bank scandal.

Desmond (2004) reported that access was facilitated despite temporal closeness to politically sensitive events. However, I determined that it would be more difficult to access participants both in the period before and after the election. I also felt that even if I had to avoid the election period, it would still be nearly impossible to access participants unless they were known on a personal and/or professional level by Caius and/or myself. The decision was therefore taken to switch from random sampling to non-probability sampling methods: a blend of availability sampling, purposive and snowball sampling. Towards the end of June 2017, I debated whether the decision should be taken to revert to random sampling. However, two events casting the MFSA in the spotlight occurred, solidifying my decision to use non-probability sampling methods. On 14 June 2017, DCG reported that the Chairman of the MFSA and the Chairman of Pilatus Bank were travelling together on a flight to Malta from Frankfurt. And on 22 June 2017, DCG stated that inspectors from the Banking Supervision Unit had refused to conduct an on-site inspection of Pilatus Bank.

The sample in the substantive stage of the interviews comprised 39 Maltese financial services participants. These individuals were selected using a combination of availability sampling, purposive and snowball sampling and meeting the criteria set out at pp. 36-37 above.

The final sample, including the participants from the pilot stage, comprised 49 Maltese financial services participants in or representing operators licensed by the MFSA (see Appendix 3 for list of interviewees). The 49 research participants were distributed across the financial sectors as follows: 18 banking sector; 10 insurance sector; 9 investment services and funds sector; 8 Company Service Providers (CSPs) and trusts; and 4 auditing and accounting firms. Of these participants, 24 were directors or partners, 9 were CEOs or managing directors, 4 were Chairmen, 6 were compliance officers, 5 were lawyers and 1 was a money laundering reporting officer.²⁹

²⁹ Some participants occupied roles in different sectors.

4.1.3.2 Contacting participants and gaining commitment to participate

Researchers have identified a range of factors that influence access to elites. These include luck, insider status, previous relationships, making the right contacts, personal contacts, help from an influential individual with an extensive network who is enthusiastic about the research and willing to assist in gaining access (as an intermediary) as well as knowledge of the local context (Gamson, 1995; Healey and Rawlinson, 1993; Hunt, 1998; Leblanc and Schwartz, 2007; Mikecz, 2012; Ostrander, 1993; Van Maanen and Kolb, 1985; Zaloom, 2006). My experience in recruiting research participants from the Maltese financial services sector was consistent with these findings.

Three referral sources or intermediaries (Caius, Iago and Portia, the latter two also being interviewees) at a prestigious Maltese law firm where I had previously worked for three years between 2009 and 2012 and who were enthusiastic about my research put me in touch with 46 potential interviewees. Caius was the main referral source, putting me in contact with 41 participants (including Iago and Portia). Iago introduced me to another four potential participants and Portia to two potential interviewees. Another referral source (Caliban), another interviewee referred to me by Caius, helped put me in touch with the compliance officer of the company of which he was CEO. The referral sources contacted potential participants either by telephone or email and with their consent provided me with their contact details, including personal telephone numbers and email addresses (both personal and corporate). All of these potential interviewees, in turn, knew the referral sources on a personal and/or professional level, enabling me to bypass their secretaries and personal assistants and contact them directly via telephone or email.³⁰ Seven potential interviewees were contacted via telephone. I mentioned to each potential interviewee who I approached via a phone call that the referral source had said that I would be contacting him/her and speaking to him/her about my project. I then provided an explanation of the project citing the research questions and requested a meeting in order to ask some questions that would assist me in the qualitative stage of my research. While providing this information over the phone, I asked the potential interviewees whether they understood what I was saying and requested their email addresses to enable me to send them three documents: (a) a brief explanation about my PhD research; (b) a participation information sheet and an informed consent form; and (c) the interview schedule (see Appendix 2 for copies of these documents). I asked for a

³⁰ In the cases of two participants, initial contact was established with the potential interviewee, but I then continued corresponding with their personal assistants.

“meeting” rather an “interview” because asking for the latter sounds more formal and I did not wish to disconcert the potential participant. All potential participants who were contacted via telephone agreed to meet within a few days.

Forty-two potential participants were directly contacted via email (see Appendix 2 for copy of email sent to participants). Following local custom, which dictates respect, I addressed each participant using their proper designation (more will be said about this below). In the email, I first mentioned the referral source who had spoken to the potential participant about my PhD and then added that “it would be great if we could meet up so that I could ask you some questions for the interview stage of my PhD project. This would be of tremendous help”. I employed the word “tremendous” because I wanted to make the potential participant feel that his/her possible contribution to the project would be precious (Delaney, 2007). Given that researchers who study elites find that these groups are extremely busy (or at least present an image of themselves as such), I declared my flexibility with timing over the following two weeks (Goldman and Swayze, 2012; Welch et al., 2002). This also afforded me time to space out the interviews. I concluded each email with the line “I look forward to hearing from you.” In the emails, I also provided each potential interviewee with the three documents mentioned above. Unlike the experience of Conti and O’Neil (2007), whose emails were simply ignored, 39 of the potential participants promptly replied to my emails either on the same day, the day after or within a few days. Only three responded after a week, all offering their apologies. In two cases, they explained that the delay was due to restricted email access. All interviewees contacted via email agreed to be interviewed. Meetings were set within a few days. Only in 13 instances were meetings set after a week.

Delaney (2007) argues that the key to gaining access is to write a robust introductory letter using non-academic nomenclature that emphasises the valuable contribution that the potential participant would make to the research. Although I adhered to Delaney’s advice, I attribute gaining potential participants’ commitment to participate to the fact that all of them knew the intermediaries on a personal and/or professional level. It would have been very awkward indeed had the referral sources passed on the potential participants’ contact details to me with their consent, only for them to refuse a meeting when I contacted them. In most (41) of the cases, Caius was the main referral source. It would appear that his involvement was effective in obtaining access to the high-level interviewees because he knew them on a personal and/or professional level and had a reputation for integrity forged over several years as a trustworthy, hardworking and honest individual. In fact, Claudius specifically remarked

that one of the reasons he agreed to meet me was due to the “great respect” he had for Caius. Moreover, all of Caius’s referrals asked me to pass on their regards to him, demonstrating, at least to me, that they held Caius in high esteem. The implications of Caius as a referral source in relation to building rapport and trust, power dynamics and confidentiality will be discussed in a later section of this paper. The importance of having a trustworthy source for securing access can be demonstrated by what may happen when an unreliable source is used. During the course of my fieldwork, I discussed the research project with a young lawyer whom I shall call Shylock. Shylock proudly told me that he had an extensive network of connections that he had forged while working at one of Malta’s most reputable law firms and that he would be more than willing to contact them on my behalf. I knew from previous conversations I had with other experienced lawyers that Shylock is considered to be a shady and untrustworthy individual. Using Shylock as a referral source would undoubtedly have impeded access. I therefore politely declined his offer by saying “OK, thank you very much for the offer, I have already managed to secure access to a number of participants and will let you know if I need your assistance.” I never contacted Shylock, and I believe this was a good decision on my part. During an interview with Benvolio, Shylock’s name came up, and the interviewee issued a stark warning: “avoid him like the plague”.

Two potential participants, Puck and Macduff, were my childhood friends and so contacting them and receiving their consent to be interviewed was very straightforward. The interview with Puck was conducted only a few hours after I telephoned him asking for a meeting. He said “For you, anytime”. In the case of Macduff, I had mentioned in informal conversation about a year earlier the possibility that I might ask him for an interview. When I formally contacted him via email requesting an interview, he replied the following day to ask if we could meet in two weeks’ time, to which I agreed. Even though both of these participants were childhood friends, I still felt it was important not to skirt around the issues of informed consent. Accordingly, I thoroughly explained the purposes of the research over the phone and sent them a participant information sheet and informed consent form via email.

Employing referral sources (in particular Caius) and personal contacts to access participants was not only necessary given the political scenario described above but also because of the local context. Malta is a small country with an area of 316km² and a population of just over 400,000. Due to its size, degrees of separation between individuals are few. It is a country where everyone knows everyone. Brabantio even went as far as to call Malta an “incestuous community”. Despite the few links separating individuals, it is a local

custom for a referral source to make an introduction. While it would not be taboo to cold-call potential participants, a referral would undoubtedly significantly increase the likelihood that the individual would agree to meet the researcher. A murky side to this local custom exists. Caius explained that Malta has two types of freemasonry: the formal form, with members engaging in obscure and arcane rituals; and the informal kind, involving the use of networks and contacts. He also remarked that the latter form of freemasonry is used for both illicit and licit purposes. Caius, drawing on his practical experience as a professional in the Maltese legal sphere, was convinced that using networks of contacts would be critical to gaining access.

4.1.4 Getting the data

Having discussed the process used to identify potential participants, the impacts of particular political events on the research process and the process of contacting participants and gaining their commitment to participate, I wish to focus on the challenges experienced in attaining the data. Indeed, this process was affected by a complex interaction of factors acknowledged in the literature on interviewing elites (in particular, location of the interview, seating arrangements, rapport and trust, power dynamics and positionality of the interviewer). I shall begin with the place of interview and seating arrangements. The positionality of the interviewer is discussed within the sections describing rapport and trust and power dynamics.

4.1.4.1 Location of the interview and seating arrangements

Researchers studying elites agree that the location of the interview affects the types of data that participants are willing to share (Harvey, 2010; Mikecz, 2012), but disagree on the specific location where the interview ought to be conducted. Ostrander (1995:20) claimed that meeting in a public place familiar to the interviewee (such as an elegant restaurant) and arriving before the interviewee tips the power balance in favour of the interviewer enabling one to conduct a “frank and substantive” interview. Dexter (2006), however, cautions against meeting in a public place as this can lead to general chitchat. Mikecz (2012) acknowledged certain disadvantages of meeting in public places (the noise level makes it harder to concentrate, compromising the quality of the audio-recording and rendering transcription more difficult than when recording in office settings), but discovered that these locations yield “high-quality” and “invaluable” data. In contrast, few participants in McDowell’s (1998) research wished to be interviewed in a public place (like a bar or restaurant) and felt

more comfortable being interviewed in a neutral space in the work environment such as a boardroom. Essentially, the appropriate location to interview elites depends, as Harvey (2010:10) notes, “on a number of factors, including the research context, the type of respondent being interviewed as well as the predicted power relationship between the interviewer and respondent”.

In the case of my research, in line with other social scientists who have conducted research on elites, I sought to primarily ensure the comfort of the participant (Pierce, 2011). At the same time, I did not want the interview to be conducted in a public place (such as a restaurant or bar), not for the reasons cited by the above researchers, but because of the sensitive nature of the research. Given that the study revolved around the MFSA, which was in the political and media spotlight at the time, I did not want our conversation to be overheard by anyone. To satisfy these two goals, I allowed participants to select the venue; and in all but two cases I deferred to their preference. Forty-one interviewees opted to be interviewed at their workplace to which I immediately agreed. Of these, 21 took place in the interviewee’s office and 20 were held within boardrooms. Six interviewees suggested their private residence, to which I also agreed. One interviewee, Macduff, a close childhood friend, asked if he could be interviewed at my house, which I naturally accepted. Two participants, Prospero and Lear, requested the interview to be held at lunchtime in a restaurant. While I would have preferred the meeting not to be conducted at this location, I did not want to bluntly decline as this would have been impolite and would have blunted rapport-building in the early stages of the research. I therefore explained that due to the sensitive nature of our discussion it would be more appropriate to find a quiet location within the restaurant. Lear remarked that this would be difficult because the restaurant becomes rather busy at lunchtime. He additionally explained that he was reluctant to conduct the interview at his private residence because his wife would be there. I suggested that as he lived just a short distance from my house by car we could meet at my home. I also explained that to protect his identity I would ensure that nobody would be at home at the time of the interview. Upon learning these details, Lear promptly agreed. Prospero assured me that “there is no eavesdropping where we will meet” and stated, “as you are sensitive to this, whilst we will still meet at this place we will then proceed to our apartment and meet and discuss on our terrace.”

Whether at the participants’ workplaces (offices or boardrooms) or private residences or at my home, the interviews proceeded relatively smoothly. The interviewees appeared

comfortable and at ease, aside from some participants feeling uneasy about the presence of the audio-recording device. For instance, while I was interviewing Brutus in the boardroom, he adopted a sombre tone, speaking carefully in English, stammering all the while. Once the recorder was switched off, he began talking in Maltese in a more frank and free-flowing manner. I had a similar experience with Portia. During the interview in her office, Portia appeared tense and adopted a cautious tone. However, once the recorder was turned off, she became much more talkative. Reagan continuously looked at the device throughout the interview but still mentioned sensitive information while it was switched on. In contrast, seven interviewees divulged *more* sensitive and “juicy” information or were more critical about the MFSA once the recording device was switched off. Two participants specifically signalled to me to switch the recorder off to tell me confidential information.

There were some minor interruptions in both the workplace and private settings. For instance, while I was interviewing Brutus in his firm’s boardroom, one of my friends who worked at the same firm unexpectedly walked into the room because he heard that I was there. I immediately switched off the recorder, and we spoke briefly for a few minutes before returning to the interview. And while I was interviewing Banquo, his office phone rang on three occasions. He answered the phone every time, getting increasingly irritated and huffed and puffed. The final time the phone rang I heard him tell the receptionist “I told you I am in a meeting; I will call when I am ready”. As Banquo returned to the table, he apologised. I explained that I was used to this as whenever I try to speak to my father he is constantly interrupted by telephone calls. This explanation seemed to put him at ease. While I was conducting a meeting with Claudius, he had to attend an urgent conference call with some members of his team and asked me to leave his office for a few minutes. When I conducted the meeting with Prospero at his private residence we originally started talking in the living room area but there was a problem with the room’s air-conditioning and so it was getting unbearably hot. He therefore suggested that the interview be held in the kitchen where his wife was preparing lunch. As we were entering the kitchen area, his wife protested but he stood his ground, saying “We will not disturb you; it is too hot inside the [other] room.” She scowled at me and I felt awkward for intruding into her kitchen space.

The location of an interview also affects the power dynamics between the researcher and the participant (Elwood and Martin, 2000). I will discuss power dynamics and their impacts on attaining the data in a further section of this chapter. However, for the purposes of this part, I wish to make a few points. First, in cases where the interview was being

conducted at an interviewee's workplace or private residence, the interviewee was generally able to exert more control over the interview. I believe that this was due to two reasons: the interview was being conducted in the interviewee's own domain; and I generally feel less comfortable conducting interviews in unfamiliar settings. Admittedly, when I conducted the interview with Lear at my own residence, his domineering character overshadowed any attempt of mine to control the flow of the interview. Second, the interview venues symbolised and heightened the power distance between the participant and me. Many interviews were conducted on the top floor of office buildings with fantastic views of the island, large boardrooms with even larger desks, or old Maltese townhouses that were lavishly decorated. The grandiosity of the locations, reflecting the top positions the interviewees held in the organisations under study (an observation also made by Hunter, 1995) as well as their evidently high salaries made me feel slightly subordinate, leading to a passive stance throughout the interviews. Nevertheless, seating arrangements served to reduce the power distance between me and the interviewees. In the workplace scenario, many participants possessed not only a large desk on which to work but also had a smaller table to conduct meetings. All participants with this set-up in their offices asked me to sit down by this smaller table. This helped to slightly reduce the power distance, enabling me to conduct an informal conversation rather than a strict formalised interview (Empson, 2017). Sitting by this smaller table or, as suggested by Pierce (2011), at a right angle to the interviewee rather than opposite to him or her (where the meeting was conducted at a large table), made me feel more comfortable in trying to coax the interviewee to answer my questions, steering them back on track whenever the interview proceeded at a tangent and asking follow-up questions to probe further. In the private residence scenario when interviewing Prospero, I achieved the same comfortable effect when we sat side-by-side on a small sofa.

4.1.4.2 Developing rapport and gaining trust

Building rapport and gaining trust are essential to obtaining candid and honest information from participants (Doody and Noonan, 2013; Harvey, 2010). In the case of my research on Maltese financial services participants, I utilized a range of techniques with different participants. I will illustrate and discuss the process of how I sought to do so primarily through the lens of Goffman's (1956) rituals of deference and demeanour.

Goffman (1956:473) explained that all segments of society are imbued with rules of conduct which serve as a guide for action and which ought to be followed not only because

they are “pleasant, cheap or effective” but also because they are “suitable or just”. In his analysis, Goffman distinguished between the following rules of conduct: (i) symmetrical and asymmetrical; and (ii) substantive and ceremonial rules. While symmetrical rules are those that create mutual/bilateral obligations and expectations, asymmetrical rules are those that produce unilateral duties and expectations. On the one hand, substantive rules are those that guide conduct concerning matters that by their own nature are fundamentally important. On the other hand, ceremonial rules are those that guide conduct regarding issues that by their very nature are insignificant or of secondary importance, but through which an individual communicates his or her character or expresses his or her appreciation of other individuals. Goffman noted that these ceremonial messages can be linguistic, gestural, spatial, task-embedded or part of the communication structure. He goes on to explain that these ceremonial messages can be divided into two forms of ceremonial activities or rituals, termed deference and demeanour. Deference is the part of the ceremonial activity through which an actor symbolically conveys appreciation to a recipient. Goffman subdivides deference into two forms: avoidance rituals and presentational rituals. While avoidance rituals are negative ethics that prescribe what ought not to be done, presentational rituals are positive ethics that set out what ought to be done. Goffman describes four common forms of presentational deference: salutations, invitations, compliments and minor services. For Goffman, demeanour is the part of the ceremonial activity generally conveyed *via* deportment, dress and bearing through which the actor demonstrates to the recipient that he or she is an individual of desirable or undesirable qualities.

Ostrander (1993) and Harvey (2010) sought to build rapport and develop trust with elite participants in the initial stages of their research by ensuring their interviewees’ anonymity and confidentiality and by disclosing to interviewees in an open and transparent manner their own identities, the goals of the research and how the results would be utilised. I followed that advice. As a PhD student conducting research at the Institute of Criminology at the University of Cambridge, I am bound by the British Society of Criminology Statement of Ethics to obtain a participant's voluntary informed consent before starting the interview. This is an asymmetrical substantive rule. The duty to obtain informed consent is asymmetrical because the participant owes no such obligation to me. Obtaining voluntary informed consent is of substantive importance because otherwise I would be coercing and deceiving the participant. Consent obtained through coercion or deception would have numerous effects. First, any initial attempt at building trust would be shattered because, as Onora O’Neill

(2002:37) argued, “trust is destroyed by deception”. Second, and from a general legal perspective, consent is vitiated by coercion. Third, and from a Kantian perspective, I would be breaching the categorical imperative of respect for persons (Levine, 1991). To prevent these negative effects, prior to the interviews, I sent to participants via email a brief explanation of the PhD project, a participation information sheet and informed consent form as well as the interview schedule.

At the beginning of most of the interviews, I explained the purposes of the research by citing the research questions and the methods I was using to address them. I emphasised that the research was being conducted under the precepts of confidentiality and anonymity. I then asked for permission to record the interview. In this regard and similar to Goldman and Swayze (2012), I explained that recording was necessary to enable me to listen instead of taking notes. I would further explain that since the participant’s actual words were essential to the research and given that the data analysis would be based on those words, it would be better to audio-record the interview to capture the participant’s thoughts rather than writing them down and thereby potentially distorting them. To further guarantee each interviewee’s anonymity and confidentiality, I explained that the voice recordings would be stored securely and that having been transcribed they would be deleted.

Following these assurances, I then asked each participant whether we could proceed to the interview. In all cases the participant answered affirmatively, demonstrating *prima facie* that abiding by this asymmetrical substantive rule contributed to their agreement to begin the interview and to be recorded. Some participants explicitly referred to these assurances before consenting to be recorded. For instance, Lear remarked that he normally refuses to be recorded, but because of these assurances, as well as others mentioned below, he agreed. Similarly, Demetrius stressed that deleting the recording would be crucial. Even one of my close friends, Macduff, was particularly concerned that he might be identified through his responses. It was only after I emphasised my substantive obligations was he comfortable proceeding with the interview. These examples confirm Ostrander’s (1993:16) observations that “getting in was not the same as gaining real access and establishing the kinds of relationships essential to getting useful information”. Other participants were more relaxed about my adhering to the substantive obligations. For example, Othello stated in a very cool manner that he did not mind being recorded. Similarly, Caesar claimed “It is not a problem, I give many interviews”. Claudius was more vocal and with extreme candour repeatedly stated that I could divulge his identity. In a few cases, participants casually handed

me the informed consent sheet filled in and signed at the start of the interview. In these cases, I refrained from explaining the purposes of the research, as I assumed that my substantive obligation had been fulfilled, but I asked if they had any questions they wished to pose regarding the research. In some cases, and as I became more confident throughout the research process, I asked the participant if he or she had examined the relevant documents. If the participant's response was negative, I would spend some time going over the relevant documents. If the participant had read the documents, I would ask the participant whether we could proceed to the interview. In all cases, I emphasised the principles of anonymity and confidentiality.

Similar to Hunter (1995) and Lancaster (2017), I discovered that many Maltese financial services participants, either at the beginning or at the end of the interview, were interested in knowing "who else I spoke to". Unlike Hunter, I did not reveal or divulge specific names, as doing so would have breached the substantive obligations of confidentiality and anonymity, risking not only criminal and civil prosecution but also resulting in a breach of trust endangering both this and future research. In addition, and similar to Ostrander's (1993) suspicions, this may have been a test to determine whether I could be trusted to keep the interviewee's identity secret. Whenever these situations occurred, I would say something along the following lines: "Please appreciate that I cannot divulge the identity of the participants because this would violate the ethical agreement, but I can mention that I have spoken to lawyers and to individuals in the big four and in credit institutions, financial institutions, insurance institutions, investment services, trusts and trustee services and corporate service providers". Unlike the participants in Hunter's (1995) research, my interviewees seemed to be dissuaded from probing any further, but similar to Lancaster's (2017) research, they suggested that I speak to certain individuals. For instance, both Iago and Benvolio advised me to speak to Tybalt, who unbeknownst to them I had already interviewed. I allowed these participants to put forward their suggestions because doing so would provide not only information on who to interview and who not to interview (Hunter (1995) but, as occurred in this case, confirmation that the individual *can* provide useful information.

Aside from abiding by the substantive obligation to build rapport and trust, I also engaged in presentational deference rituals with specific etiquette. Many of the participants occupied the highest positions in the organisations under study, were at least 20 years older than me and/or were lawyers or accountants. Owing to these status differences, I was

compelled to abide by the informal *asymmetrical* ceremonial rule to defer to them by addressing them as Mr ____, Mr Chairman, Ms ____, Professor ____ or Dr _____. In addition, and similar to Mikecz (2012) and Liu (2018), I paid attention to local practices. For instance, it is a Maltese custom to address financial services professionals by their proper designation unless instructed otherwise by the participant. When I addressed participants using the preceding salutations, all bar one participant requested that I call them by their first name. In the case of Macbeth, however, it was only after meeting him a second time that he asked me to call him by his first name. Addressing participants by their proper designation and subsequently being asked to address them on a first-name basis suggests that a show of deference contributed to achieving rapport.

Some researchers seek to develop a rapport with their participants by creating the right impression by dressing the part (see, for example, Froschauer and Wong, 2012; Richards, 1996; Ryan and Lewer, 2012; Spence, 2015). I also engaged in this form of ceremonial behaviour to appear as a “properly demeaned individual” (Goffman, 1956:489). My left and right arms are both tattooed. I have an image of Lady Justice on my left forearm, Millais’ Ophelia on my left inner arm, a quotation on my right forearm and an etching of St Catherine of Alexandria by Martin Schongauer on my right arm. As Farrington (1994) remarked, tattoos may be considered the criminal’s barcode and it was therefore crucial that I cover my arms by wearing a long-sleeved shirt, which was quite uncomfortable in the summer months. Apart from engaging in this form of ceremonial behaviour, which according to Smith (2006) can be considered as a manipulative tactic, I also sought to demonstrate my sartorial sense by arriving at the interview dressed in a smart casual manner, such as by wearing trousers not jeans, and shoes not sandals. For the interviews conducted in spring (April and May) I wore a full suit with jacket and tie, while in interviews carried out in the summer months (June, July and August) I did not wear a jacket or tie as during these months Maltese financial market participants rarely dress in such manner unless they have a board meeting or need to appear in court. It would therefore have been excessive for me to wear a full suit, especially in the summer months in blistering heat. More will be said about the demeanour of participants when discussing power displays.

Kezar (2003), citing Dexter (1970), argued that showing empathy can help build rapport and trust. I also sought to display the positive character trait of empathy via reflective listening. For example, I would regularly employ the phrase “just to make sure I am understanding correctly” or would attempt to interpret the meaning of what the participant

was saying. Similarly to Gilding (2010), appearing empathetic helped to facilitate further discussion or clarify points made by the participant, yielding richer data (Karnieli-Miller, Strier and Pessach, 2009).

Goffman (1956:479) argued that “deference comes to be conceived as something a subordinate owe to his superordinate” but goes on to explain that “this is an extremely limiting view of deference”. Throughout the research, I always aimed to be punctual. Arriving late for an interview would have been considered extremely rude and would certainly have jeopardised my chances of building rapport. Moreover, the interviewees generally had busy schedules, so it was critical to meet at the specified time in order not to lose the opportunity for a meeting. In only one instance did I fear that I was going to arrive late for a meeting – with Brutus. I have been a friend of this individual for many years and so I felt comfortable enough to text him, while I was stuck in traffic, to inform him that I would be late. He immediately texted me back saying “No worries”, although ultimately I did arrive on time. While I offered *all* interviewees presentational deference by arriving punctually, Claudius and Reagan did not immediately reciprocate such behaviour. I had scheduled a meeting with Claudius’ personal assistant for 3pm and arrived at his offices a few minutes early. However, Claudius did not turn up until 3.30pm. A similar situation occurred with Reagan. I arrived at the interview location a few minutes before the scheduled time. As I was walking towards her offices, I received a phone call asking me to go to another location. It only took ten minutes to drive there by car. When I arrived at the second location, Reagan took approximately half an hour to call me to her office. In both these cases, I was initially rather annoyed. I felt tempted to say “Really, half an hour late? I gave you the common courtesy for arriving on time for the scheduled meeting, the least you could do is be there on time”. I bit my tongue for three reasons. First, I knew from previous experiences as a lawyer (and confirmed during this fieldwork) that financial services practitioners are extremely busy and I therefore had to allow some latitude when meeting interviewees. Second, calling out participants for arriving late, particularly when I needed to interview them to collect the data would have demonstrated a lack of self-control, aggression and rudeness all of which reflect a lack of proper demeanour. Displaying such an inconsiderate attitude would undoubtedly have ruined my chances of building the necessary rapport to obtain the data. Third, both participants apologised profusely, thereby reciprocating proper comportment. A simple apology had three effects. Accepting their apology helped to build a stronger rapport. By showing proper demeanour, the participant made me less angry, enabling me to ask questions

in a relatively calm manner. By apologizing, participants also indirectly admitted that they had breached the presentational deference rule of punctuality. In addition to restoring their reputation by offering multiple apologies, I believe that participants took more time out of their schedule than they had initially intended, allowing me to ask important questions. I also knew that Claudius had another appointment but cancelled it to continue talking to me.

Other techniques were employed to forge rapport and trust with participants. As Pierce (2011) has suggested and as noted by Mikecz (2012), maintaining eye contact proved helpful. Similarly to Goldman and Swayze (2012), rapport and trust were developed by utilizing a referral source. Many participants who had been referred to me by Caius would, at the beginning of the interview, inquire about how Caius was doing. I would generally tell them that he was fine but very busy with work. I believe that conversing about this common connection made the interviewee feel comfortable with me, as occurred with Oakley (1982) and Puwar (1997), contributing to the interviewee sharing his or her own personal experiences (Kezar, 2003). Some interviewees associated me with Caius, helping to create rapport. For example, Caesar remarked how my voice is identical to Caius' while Theseus even called me "Caius". Both Edgar and Laertes also observed my resemblance to Caius. Lear projected his trust in Caius (the main intermediary) to me, creating what Petkov and Kaoullas (2015:9) describe as an "aura on trust". This was essential to obtaining his consent to audio-record the conversation: "Caius is a person of integrity and trust, then you are a person of integrity and trust".

As with other researchers (Anthony and Danaher, 2015), having a shared interest or establishing common ground with participants helped to forge rapport and trust. Romeo was also a PhD student, and after guaranteeing confidentiality he told me that "he understands all the issues I am facing regarding recording". At the beginning of the meeting, Gloucester mentioned that he knew my grandfather and my grandfather's brother. He reminisced that while my grandfather was the "business type of man", dealing for example with banks, his brother was the "enforcer", dealing with stevedores. Bringing up this family connection at the start of the interview brought us closer together, yielding a smooth interview.

Rapport was also easily built with those individuals who were friends of mine, either from childhood or through work. For instance, a close rapport was developed with Antony (the former CEO of an insurance company). After Antony asked to conclude the interview because he had another meeting, I mentioned that I remembered him from annual general meetings (AGMs) of a publicly listed company I used to attend while working as an associate

in a major law firm in Malta. (I did not bring this up at the beginning of the interview because the introduction had been made by Caius, the primary referral source.) Upon hearing that I remembered him from the AGMs, he postponed his other meeting and we spoke for a few minutes about my PhD. He also gave me a book as a gift and offered to provide assistance as and when necessary.

Having examined how rapport and trust were developed throughout the research project and how they contributed to attaining the data, the discussion now turns to how power dynamics affected data collection, in some cases doing so through the lens of Goffman's rituals of deference and demeanour. In specific instances, power dynamics were intricately linked to rapport building. These examples will be discussed below also through the lens of Goffman's ceremonial rituals.

4.1.4.3 Power dynamics

Hunter (1995) advises researchers studying elites not to ignore the elites' power as well as their own power in the research relationship. Akin to other academics studying elites, and as can be seen in Appendix 3, 29 Maltese financial services participants tended to dominate the interviews in a range of ways. Many interviewees (27) gave lengthy answers to many of the questions rendering it difficult to ask other questions and follow-up questions.³¹ Furthermore, some of these interviewees did not answer the questions posed to them. For instance, Polonius went off at a tangent when I asked him a question about the role of the MFSA:

- | | |
|----------|--|
| MM | So what do you understand the role or the function of the MFSA to be? |
| Polonius | I respect regulators in the sense, I know that there is need for a regulator, in everywhere and in everything. What is important is obviously that the regulator knows what he is doing and treats everyone with the same scale. |

Gloucester also failed to specifically answer the question pertaining to the function of the MFSA:

- | | |
|------------|---|
| MM | So my first question is what do you understand the role of the MFSA to be? |
| Gloucester | First of all just as some background I had been seconded after the 1987 elections when there was a change in government. I had been seconded to the Malta International Business Authority, which was the authority |

³¹ While exceptions did arise, giving long answers was characteristically displayed by interviewees who were at least 20 years older than me.

that was set up to launch the offshore business concept that then morphed into the MFSA. The offshore label was dropped; it became the MFSA and again whereas previously supervision of banks was by the Central Bank and insurance was by the Ministry of Finance and funds almost didn't exist. Then it all came under one roof under the one-stop concept of the MFSA.

Escalus displayed dominance by suggesting that one question on the interview schedule should have been asked before another:

- MM This is quite a broad follow-up question, but how effective do you think the MFSA is in performing these functions?
- Escalus I would like ... because when I saw the sequence of your questions, there was a question which I thought at least in my position should have been before because I think one of the questions was: What experiences do I have with the MFSA?

On some occasions, interviewees would immediately take charge of the interview. For instance, Romeo started answering the questions without me prompting him:

Shall we start with the first question? Let me give you a brief introduction about myself. I am an accountant and an auditor, I graduated from the University of Malta with a BA(Hons) degree and subsequent to that I completed my ACCA studies.

In a similar vein, Albany began the interview himself by mentioning numerous preliminary points:

Naturally, the way I am going to reply to your various questions is in the context of Bank ABC, which is not DEF bank nor XYZ bank, and my experience is what it is. I thought of mentioning that initially and perhaps this is something you are already aware of: that the MFSA was staffed by people coming from the Central Bank initially. Now some time has gone by in the meantime, so naturally, there are new entrants who come from various areas and newcomers who joined just out of university, polytechnic or whatever it is. So initially you had these people who moved or were, in inverted commas, forced to move from the Central Bank of Malta to the MFSA because there was resistance then.

I believe these interviewees displayed these dominant characteristics because they occupied high-level positions in the organisations under study (chairmen, CEOs, directors and partners) and are therefore “used to being in charge” (Ostrander, 1993:19).³² In these instances (interviewees giving long answers, not answering the questions posed to them and

³² Caius would occasionally forewarn me about a participant's dominant character traits (as he did with Prospero and Lear, the two most dominant interviewees). Most times he would remain silent not to influence my judgement.

taking charge of the interview), rather than interrupting, I adopted a deferential attitude and doxastic interview style (Brinkmann, 2007) by allowing them to talk while I listened carefully, as Mayo (1949) suggested, before asking them the question again in a polite manner, as Thomas (1993) advised. Alternatively, I would try to organise another meeting, which occurred in three cases. These were forms of avoidance and presentational rituals that I employed for four interconnected reasons.

First, the interviewees who displayed this level of dominance were all at least 20 years my senior, and an expectation existed that I would respect my elders by allowing them to speak freely, without interruption. Second, these interviewees were, in Hunter's terms (1993:50), "knowledgeable informants". I fulfilled the role of a student by listening in accordance with the maxim *a bove majori discit arare minor* (a young ox learns to plough from an older one) (Gray, 2006a:21). Admittedly, to establish some level of dominance on my part and to prevent interviewees from giving long responses, I considered telling interviewees at the beginning of the interview "I am interested in everything you have to say, and I wish to go over all the questions so please be concise and brief in your responses". When I mentioned this to Caius, the primary referral source, he advised that if the participant had agreed to give me his or her time, it would be rude to ask them to be concise. Third, interrupting the interviewee would have been considered rude behaviour that would have blunted rapport. Fourth, this behaviour would have caused reputational damage to both the referral source and me. Malta is a small country and news of disrepute travels fast. This would have impeded my chances of collecting further data. Nevertheless, as the research progressed, I became more confident in asserting my own position throughout the interviews. This confidence was admittedly contingent on the relationship of the interviewee with the referral source. In those cases where I knew that the referral source had a personal, rather than a professional, relationship with the participant I was more confident in steering the interviewee back on track. I also discovered that a useful way to encourage the interviewee to answer a question was to wait for him or her to pause and quickly ask a question.

Four participants (Lysander, Caesar, Cornwall and Prospero) displayed power by questioning the project's link with criminology. In these situations, I would calmly explain that police studies have shown that if the general public perceives that the police lack legitimacy (for example, if they feel that they are being mistreated) it is more likely that they will fail to comply with the law or to cooperate with the police. Remaining unruffled while expressing my views was a form of ceremonial behaviour that was adopted to portray myself

as a well-demeaned individual. Instrumental reasons explained my attempt at displaying a well-demeaned image – that is, to avoid reputational damage and to continue to build rapport (essential for collecting the data). I also adopted a calm attitude (and did so for the same reasons) when Caesar and Macbeth advised me to include the Financial Intelligence Analysis Unit (FIAU) in my study. I explained to both Caesar and Macbeth that while researching the FIAU was important, my project concerned the legitimacy of the MFSA and not that of the FIAU.

Two interviewees displayed dominance by postponing the meeting as I arrived at the interview location. Indeed, Caesar asked if we could adjourn the meeting for half an hour because he had to go for lunch with the chairman of his company. I naturally agreed and took the opportunity to have lunch too. When I arrived for the meeting with Tybalt, his secretary asked me to sit down while she went to inform him that I had arrived. I immediately realised that he was in another meeting and that he had forgotten that he had a scheduled a meeting with me at 12pm. He asked if I could come back at 1pm to which I agreed. As I exited the office, I wanted to make doubly sure that I was not the cause of this confusion, so I checked my emails. I was correct: the meeting with Tybalt had been scheduled for 12pm. In both these cases, I felt slightly displeased because I had an expectation that individuals of this standing would display presentational deference by committing to the agreed time and not forgetting that a meeting had been scheduled. When I returned for the meetings, both Caesar and Tybalt apologised for having had to postpone at short-notice. I adopted an empathetic attitude (combined with self-control) and explained that I understood how busy they were and how things can crop up at any instant. Empathy was employed as a strategy. This demeanour was adopted for the instrumental reasons cited above: to avoid reputational damage and to build rapport.

Tensions did rise on two occasions. Prospero first asked whether I was a lawyer. When I replied in the affirmative, he quizzed me, remarking “but criminology is not law”. This display of power (presuming that he understood the wide-ranging discipline of criminology) annoyed me. I responded curtly, “Yes, but it is multidisciplinary, including not only law and psychology but other disciplines such as geography”. He then asked whether it includes subjects like sociology and anthropology and I replied “Yes exactly” in a firm tone. I quickly realised that this lack of self-control on my part may have compromised our rapport because Prospero was taken aback.

Malvolio displayed dominance by questioning the rationale behind the question:

MM: Have you ever thought about stopping to work in the industry?

Malvolio: I mean, as you know, I'm the managing partner of the organisation, so, I mean, stopping, I don't understand what that means; because, obviously, it's an integral part of what the organisation does.

The arrogant tone in which he questioned the meaning behind the question annoyed me. I tried to remain relaxed and explained that one of the reasons I asked that question was because some respondents had told me that the MFSA had bothered them so much that they were seriously considering leaving the sector. A few minutes later he questioned the *raison d'être* behind another question, perceiving the answer too obvious, again in an arrogant manner. Owing to this dominant attitude, I became quite irate, using a firm tone to make my arguments. I believe that by asserting my own position firmly, Malvolio was more inclined to respond in a succinct manner:

MM: What do you think justifies the powers of the MFSA, or why do you think it is right or proper for the MFSA to have the powers that it has?

Malvolio: Because you need a regulator, otherwise, I mean, in every serious financial services centre there is a regulator, so without a regulator how can you protect the consumer? For example, that's the main function, right? So a service to ensure that enough information is made available to the consumer, so, I mean, I don't really get the thrust of your question here either. Tell me why you're asking that question like that? Why?

MM: Why? Because that question directly concerns the legitimacy of the MFSA.

Malvolio: Yeah, but how could you have a financial services centre without it?

MM: I don't know that that's up to the respondents to tell me, not for me to tell you.

Malvolio: Yeah, OK, I mean, that's - yeah, I think that you must ...

MM: Because I could have somebody who tells me that they don't believe in regulation, so I'm leaving that up to the respondent, and it's not for me to say.

Malvolio: Okay, I think without a regulator, history has proven that the ignorant and the innocent get taken advantage of, and, therefore, you must have somebody taking care of their interests.

According to Kvale (1996) the power balance in an interview is tipped in favour of the interviewer. Despite the displays of dominance described above and only after listening to audio-recorded interviews and reading through the interview transcripts did I acknowledge what Brinkmann and Kvale (2005:164) have described as the “asymmetrical power relation of the interview”. Consistent with these authors’ powerful researcher perspective, my research project set the agenda; I initiated and terminated the interviews (at least in most cases), determined the interview topic and posed questions including follow-up questions. Moreover, in certain instances some interviewees (including those who displayed the dominant characteristics elucidated above) seemed unsure whether their responses were correct. For example, Macbeth asked: “I don't know if this is what you wanted”. Echoing Macbeth’s question, Romeo stated: “I am not sure whether I have answered your questions”. In these situations, as suggested by Rivera et al. (2002) I assured the participant that there are “no right or wrong answers”. Cornwall specifically asked for my approval: “But does it make sense?” Similarly to my responses to Macbeth and Romeo, I assured this respondent that there are no right or wrong answers: “Yes of course. It does make sense, but I am not here to judge”.

Some interviewees, even after I had thoroughly explained the principles of anonymity and confidentiality, asked me at the end of the interview not to reveal their identity, revealing a fear that their identity might be disclosed. In these cases, I reassured the participant of my ethical obligations. Two participants also engaged in presentational deference by complimenting me about my qualifications. Macbeth remarked: “I been interviewed by some university students in the past but none had qualifications like you have”. Similarly, Montague flattered me by commenting “I am impressed with your qualifications”. While I felt proud, I displayed the positive trait of humility by saying “Thank you, I worked hard for that”. Despite being praised for my qualifications I still felt subordinate to these interviewees owing to our age difference and their position and expert knowledge. This subordinate position translated, especially with Macbeth (because he was a far more imposing figure than Montague), into a lack of self-confidence that at times prevented me from steering the interviewees back on track.

While I perceived that most interviewees exhibited some degree of dominance over the interview, there was one interviewee who seemed to display extreme submissiveness. As Cordelia and I entered the boardroom, she stated “I feel nervous, and under pressure, I feel as if I am going to be interrogated. This reminds me of my viva at university”. At the end of the

interview, she asked as a student would at the end of a test: “How did it go?” It was not clear why she adopted a submissive stance. (I do not believe that gender was a factor here, because although the financial services sector is traditionally male-dominated (Zafar, 2017), she had been working in it for many years.) I believe that the main factor contributing to her submissive stance was my relationship with the referral source, Caius. I suspect that owing to my close relationship with Caius she felt anxious that she might have said something that would be construed as incorrect or inappropriate. Indeed, throughout the interview, she was cautious with her choice of words. To try and minimize this submissive stance and to encourage her to provide more information I repeatedly explained that “there are no right or wrong answers”.

The demeanour of one participant (Messala) had an unexpected effect on me. Messala attended the interview wearing a shirt unbuttoned till just above his solar plexus. Although, I did not wear a full suit during the summer months due to the blistering heat, I still dressed in a smart-casual manner as did all of the other participants, and I expected them all to display proper demeanour.³³ Messala’s lack of proper demeanour made me feel more dominant and increased my confidence throughout the interview.

4.1.5 Getting out – analysing the data

All interviews (including those in the pilot stage) were transcribed verbatim to aid data analysis (Hennick, Hutter and Bailey, 2011). The pilot interviews were included in the data analysis for two reasons: the interview schedule did not change; and even though six out of ten interviewees were former members of licensed operators, they had only recently resigned from their positions or moved out of the sector. After transcribing the interviews, I listened to the audio-recordings again in order to make sure that I had been accurate. Following this, I deleted the audio-recorded interviews in order to protect the identities of the respondents. In the analysis, I was guided by the research question “What do operators expect from the MFSA or what matters to regulatees?” I divided the analysis into three phases all aided by computer-assisted qualitative data analysis software (QSR NVivo) (Bachman and Schutt, 2011).

The first stage of data analysis, called the open coding phase, created a lens through which to analyse the data by asking a specific and consistent set of questions (Strauss, 1987).

³³ In all fairness, it was a Friday (to many in Malta, the start of the weekend) and it *was* a very hot day.

This framework was based on the interview schedule and especially the following questions:

- (i) “What do operators expect or demand from the MFSA?” I coded responses for this question under the category “Expectation or demands”.
- (ii) “Can you tell me what the roles or functions of the MFSA are?” I coded responses for this question under the category “Functions of the MFSA”.
- (iii) “Can you tell me about an experience you had with the MFSA that was particularly good?” I coded responses for this question under the category “Positive experiences”.
- (iv) “Can you tell about an experience you had with the MFSA that did not go well?” I coded responses for this question under the category “Negative experiences”.
- (v) “What do you think constitutes a good (or right) relationship between companies and the MFSA?” I coded responses for this question under the category “Good relationships”.

The purpose of this phase was to identify *preliminary* concepts reflecting the basic legitimization demands of, or what matters to, licensed market participants (Neuman and Wiegand, 2000). I cast a wide net to try to capture as many concepts and themes as possible. While adopting this broad approach, I nonetheless sought to be specific. That is, I did not seek to cluster preliminary concepts in broader conceptual themes. This process resulted in 356 codes: (i) 108 codes for the category “Expectations or demands”; (ii) 70 codes for “Functions of the MFSA” (iii); 56 codes for “Positive experience”; (iv) 71 codes for “Negative experiences”; and (v) 51 codes for “Good relationships”.

In the second stage of data analysis, the above categories were examined in order to determine whether linkages and similarities could be made within and between categories (Noaks and Wincup, 2004). This stage was important for two reasons. First, it helped to consolidate, cluster and narrow the categories into broad conceptual themes reflecting the BLDs of operators. In the analysis, it became increasingly evident that many concepts were of a multidimensional nature. Through this process the following dimensions, each comprising sub-dimensions, were revealed: (i) competence; (ii) empathy; (iii) guidance; (iv) lawfulness; (v) independence; (vi) leadership; (vii) legal certainty; (viii) equality before the law; (ix) access and approachability; (x) effectiveness; (xi) quality of decision-making; (xii)

quality of treatment; (xiii) equilibrium or proportionality; (xiv) maintaining boundaries; (xv) spirit and the heart of laws; (xvi) separation of powers; (xvii) virtues; (xviii) responsiveness; (xix) resources; (xx) regulatory craft; (xxi) trust in regulator; (xxii) trust in operator; and (xxiii) voice. Second, it stimulated thinking about the associations between themes, raised new questions, and helped to reinforce connections between the data and thematic concepts. The theme of separation of powers was discarded because it only appeared a few times in the interviews (Neuman and Wiegand, 2000). The theme of virtues merged with the other themes of empathy, quality of decision-making and quality of treatment and was therefore also discarded.

In the third stage of the data analysis, I re-examined the data and themes. I selectively searched for examples that reflected these concepts. This helped confirm the previously established concepts while elaborating on others. Through this process I developed four broad themes, each with sub-themes as follows: (i) lawfulness, comprising the sub-themes of adhering to the objectives of the MFSA, acting *intra vires* and legal certainty; (ii) procedural fairness, comprising the quality of decision-making, the quality of treatment and trust; (iii) distributive fairness, comprising a lack of a one-size-fits all approach and balanced supervision; and (iv) effectiveness, comprising the themes of competence, performance of functions, substance over form, responsiveness, empathy, leadership and resources. These themes provided the basis to construct the items administered during the quantitative stage of the fieldwork.

In developing these themes, I paid attention to whether participants were expressing views, expectations or demands in their capacity as representatives of the licensed operators or in their capacity as members of the general public (or consumers of financial services). This was critical not only because the objective of the qualitative stage of the research was to identify the BLDs of, or what mattered to, operators licensed; it was also, as explained in Chapter 3, because the research was conducted in a challenging regulatory and political environment which had the potential to introduce bias into the themes. I was conscious of this risk, especially the risk of “going native”.

In order to mitigate against the risk of introducing bias into the themes, in particular the risk of “going native”, I kept my own personal views and opinions in the background and participant’s views in the foreground especially when these conflicted with participant’s point of view. For instance, I am of the view that the regulator should not be approachable or accessible with regulatees in order to maintain a *very* strict boundary with operators.

However, as can be seen in Chapter 5, the themes approachability and accessibility emerged as major expectations. I am also of the view that regulators should take their time when issuing licenses in order to perform all the necessary due diligence checks yet as can be seen in Chapter 5, participants also expected the MFSA to be fast acting when issuing licenses.

An analysis of all 49 interviews revealed that participants were in fact expressing views as representatives of operators or of the financial services industry.³⁴ Participants expressed their position explicitly by specifically mentioning the company or implicitly by using the terms “we” or “our”. I wish to give some examples of these instances below. I will begin with explicit statements. For example, Albany expressly stated:

Naturally the way I am going to reply to your various questions is in the context of the bank which is not ABC bank nor XYZ bank right and my experience is what it is.

Similarly, when I asked Coriolanus what he expected from the MFSA he asked whether he should respond in his capacity as operator:

MM What are some of the things you expect from the MFSA? And why are they important?

Corolianus What I would expect as an operator?

MM Yes, as an operator.

Corolianus Okay, I would expect more ... how would I say? The approachability is good but if possible, you know what I mean, being more approachable and being more receptive to various ideas coming from the industry.

Other participants used words such as “we”, “our”, “the operator”, “my business” or “the industry”. For example, Othello explained that in his role as Chairman of the Bank:

We then faced a difficult post financial crisis period of regulatory issues arising from the closure of one of the funds which the bank had promoted

Similarly, Bassio spoke in his position as the compliance officer of the bank:

MM And what are some of the things you expect from the JST?

Bassanio The JST request a lot of information, a lot of detailed information, they carry out their own analysis and *we* would expect that if there is

³⁴ In the email sent to participants requesting a meeting I explained that this study seeks to address the following questions: (i) what are operators’ experiences with the MFSA?; (ii) what do operators expect from the MFSA?; (iii) how do operators respond to a failure to meet those expectations? In that sense participants already knew that they should answer questions in their capacity as representatives of operators.

something in *our operation* or in the *bank's* data or in the *bank's* financial information, they would flag out the areas that are of concern and the areas that *the bank* need to look into with more focus so *we* would expect the JST to identify those areas that in their view need to be changed or need to be looked into further detail and also suggest areas of improvement and areas of good practice from their experience in dealing with other banks.

Escalus also implied that he was expressing his views as chief executive officer of a bank:

MM What do you expect from the regulator?

Escalus Definitely, at least in *my business* which is a specialised business, I would expect that they would understand more they would truly understand the financial markets that they are operating.

Like Escalus, Caliban (the CEO of an insurance company) spoke in his role as a member of the insurance company:

MM What are some of the things that you expect from the MFSA?

Caliban In the same way that *we* are expected to treat *our customers* fairly, I'm expecting them to treat their licensees fairly.

Reagan (a partner in one of the big four) spoke in a capacity as a representative of the industry:

MM What would make a good MFSA?

Reagan I think the role - as operators - I think I can safely say we are all looking for a breath of fresh air. It needs somebody who is more energetic, perhaps not so rooted in the past.

And Edgar (a lawyer and director in a CSP) like Reagan, spoke in his position as a member of the financial services industry:

MM How well-effective do you think the MFSA is in performing these functions?

R It's a very topical question that you're asking. At the moment, the MFSA is, in part, of the IFSP, so the financial services practitioners, and, again, *we* were always watching how the financial services industry can be improved.

The displays of dominance described in the previous section also affected the data analysis. Some manifestations of dominance that also occurred during the interviews (but not explored above) did not affect the data collection *per se* but impacted the data analysis due to

the emotional aspects of the research (Liebling, 1999). For instance, Macbeth likened banking inspectors to children, having only theoretical knowledge, and subsequently compared me to them:

“Children come to me, like you all right ... who have read books and studied books”.

I did not let this association bother me during the interview. I needed to display appropriate demeanour; showing offence was not an option as this would have interrupted the flow of the discussion. As the interviews progressed, I ruminated about this association. At the end of their interviews Macbeth and Caesar inquired about my post-PhD plans. I explained that while I was keeping my options open, I envisaged two possibilities: continuing my research to postdoctoral level or returning to work as a lawyer in the financial services sector. Both Macbeth and Caesar adopted a paternalistic attitude and advised that I should return to the financial services sector. This “caring” attitude annoyed me as I felt patronised. I retained my composure; otherwise, as noted previously, rapport and reputation would have suffered. How did the power displays affect the data analysis? Essentially and at the end of the research, the cumulative effect of dominant attitudes and character traits reached a tipping point. I felt a deep annoyance and a degree of animosity towards many of the participants. To overcome this, I distanced myself from the data for about a month. I also began by transcribing and analysing those interviews in which participants did not display dominance. When transcribing the dominant interviews, I realised that the more annoyed I was becoming, the more I was hammering down on the keyboard. Hence, I would stop for regular breaks and listen to loud music. When analysing the data, I would sometimes hear the dominant participant’s voice ringing in my head even though I anonymised the interview transcripts. In these instances, I would take a break to distance myself from the participants and would only re-approach the data once I had calmed down.

Emotions continued to pervade the data analysis stage owing to the political context in which the research took place (Liebling, 2001). During the data analysis, certain allegations were made in the Maltese national press concerning the political scandal discussed in the “Getting in” stage. These allegations were corroborated by information divulged by one of the participants during the interview stage. Being in possession of this politically sensitive information, I was faced with a dilemma. Should I divulge the information to the press, leading to the identification of the operator (although not the participant) and risking, like Woliver (2002), future access being hampered? Or should I keep

the sensitive information confidential and risk supporting an allegedly corrupt government? Although this information pertained to the professional role of the respondent and was socially damaging and therefore could have been divulged in the public interest (Alvesalo-Kuusi and Whyte, 2018), for various reasons I decided against this. From a legal perspective I had entered into an agreement with the participant not to divulge any data that was to be kept confidential and in accordance with the maxim *pacta sunt servanda* I had to adhere to that agreement. To do otherwise would have risked causing harm not only to myself but also to the participant, contravening Kant's second categorical imperative of respect for all persons. Continuing from a deontological perspective I cannot rationally act on the maxim "I ought to always divulge politically sensitive information" as that maxim will become a universal law. Were criminologists to divulge every piece of politically sensitive information they come across during the course of the research process, they would transform themselves into journalists. As Bottoms (2008:76) notes, the "object of any kind of empirically-based science is to generate knowledge" and I would be doing a disservice to the discipline of criminology by merely divulging information. Although I performed my duty not to divulge the information, it was painful to abide by this obligation. On Maltese social media, posts were being uploaded branding individuals as traitors if they did not disclose information in their possession that could expose wrongdoing (for example, by failing to reveal information confirming allegations made in the Maltese press concerning the Pilatus affair). The attitude among my friends was encapsulated in the phrase "the only thing necessary for evil to succeed is for good men to do nothing". Was I a traitor? Was I allowing evil to succeed? Dwelling on these thoughts was disturbing. Liebling (2001:47), following Becker (1967), argues that "it is impossible to be neutral" – one must choose a side. By not divulging the information, I felt that I was on the wrong side. Remaining neutral and standing aside at times was difficult.

4.2 Quantitative phase

The quantitative phase had three ultimate objectives:

- (i) to develop regulatory legitimacy scales that measure the legitimacy of the MFSA. This was done by drawing on the concepts derived inductively from the AI interviews and by administering a survey to MFSA-licensed operators;
- (ii) to explore whether it is perceived legitimacy or perceived deterrence that has the greatest impact on attitudes to compliance; and

(iii) to examine whether obligation to obey mediates the relationship between perceived legitimacy and attitudes to compliance.

These goals were addressed by administering a survey to Maltese financial services operators and through exploratory factor analysis, confirmatory factor analysis, correlation analysis and regression.

4.2.1 Survey development

Perceived legitimacy

The purpose of this stage was to operationalize the BLDs derived inductively from the qualitative stage by developing a pool of items that tapped into the preceding theoretical dimensions (Worthington and Whittaker, 2006). Given that the unit of analysis was operators and not individuals within the operator (although the survey was administered to individuals within the operator), *most* statements were framed around “the operator”. Exceptions arose when the statement was capturing a very personal aspect such as trust. Many statements were developed to measure the underlying concepts. The first draft comprised a pool of 235 items. In subsequent drafts, each statement was examined in depth. This exercise served several purposes. First, it helped to determine whether each statement was clear. As a result, I revised and omitted vague questions. Second, it helped to reduce and condense the dimensions. Third, repeated items were identified and eliminated. Fourth, this process helped to clarify the underlying concepts. Statements that were previously included under one dimension were shifted to other dimensions where they made more theoretical sense. This process was iterative in that I went back and forth, inspecting the data, the items and the dimensions already established in the legitimacy literature in criminology (see Liebling, 2004, 2011; Sunshine and Tyler, 2003; Tankebe, 2013). Through this process, which was carried out 30 times over a five-month period between March and July 2018, I developed 12 dimensions comprising 80 statements (see Table 2 below). There were also five stand-alone items, measuring leadership, resources, conscience, shared values and trust in the operators (see Appendix 4 for the items or statements contained under each dimension including the stand-alone items). Forty-three questions were positively worded; I coded these items on a Likert-scale ranging from “1” (strongly disagree) to “5” (strongly agree). Forty-two questions were negatively worded. For these items, coding was reversed. I coded each negatively worded item on a Likert-scale ranging from “5” (strongly disagree) to “1” (strongly agree).

Statements were positively and negatively worded to reduce acquiescence bias (Liebling et al., 2012). A higher score reflected a more positive opinion.

Obligation to obey

The questions measuring obligation to obey were adapted from Trinker, Jackson and Tyler (2018) (see Appendix 4 for a list of the items measuring obligation to obey). Four items were positively worded; I coded these items on a Likert-scale ranging from “1” (strongly disagree) to “5” (strongly agree). Four items were negatively worded. For these items coding was reversed. I coded each negatively worded item on a Likert-scale ranging from “5” (strongly disagree) to “1” (strongly agree).

Deterrence factors

Perceptions of the risk of apprehension were assessed by a single item adapted from Murphy, Bradford and Jackson (2016). This question had a Likert-type response set: 1-not likely at all to 4-very likely. Perceptions of the severity of punishment were assessed by a single item adapted from Grasmick and Bursik (1990). This question had a Likert-type response set: 1-no problem at all to 5-a very big problem (see Appendix 4 for these items).

Attitudes to compliance

I originally intended to explore the relationship between the perceived legitimacy of the MFSA, compliance with MFSA regulations, rules and directives and cooperation with the MFSA. Accordingly, I had planned for the survey to contain self-report measures on compliance and cooperation. However, due to the events described in the “Research Context” section that continued to shroud the Maltese financial services sector under a dark cloud (see Chapter 3), I perceived that operators would be reluctant to answer the statements requiring self-reporting on compliance with MFSA rules and on cooperation with the MFSA. I therefore decided to focus on attitudes to compliance and cooperation by drawing on Braithwaite’s (2009, 2013) motivational postures. Braithwaite (2017:33) considered motivational postures to “refer to the signal or messages” that individuals send to authorities about the degree of control that such authorities exert over them and to reflect a “sets of beliefs and attitudes that sum up how individuals feel about and wish to position themselves in relation to authority; they communicate social distance”. Braithwaite (2009, 2013) distinguished between five motivational postures: commitment, capitulation, resistance,

disengagement and game-playing.³⁵ While the postures of commitment and capitulation reflect positive and accommodative attitudes towards a regulatory authority, the postures of resistance, disengagement and game-playing reflect defiant attitudes (Braithwaite, 2002). The accommodative posture of commitment transmits an attitude that the regulatory objectives are sound and ought to be valued and supported by regulatees. Capitulation, the second accommodative posture, conveys an accepting attitude towards a regulatory authority along with an attitude that the authority ought to be supported because it is probably the right regulatory authority. The defiant posture of resistance expresses an attitude that the regulator should correct problems of its own making and honour its contract with regulatees. Disengagement goes a step further and displays a posture of anomie: regulatees lose their connection to the values of the regulatory system and continue operating without heeding the expectations of the regulator. The final defiant posture, game playing, demonstrates an attitude that signals adherence to the letter of the law rather than its spirit. While the postures of commitment and capitulation are more likely to lead to compliance with the law and cooperation with regulatory authorities, the defiant postures of resistance, disengagement and game playing are more likely to have the opposite effect (Braithwaite, 2009). The motivational postures of commitment, capitulation, resistance and disengagement were empirically derived via a factor analysis that sought to test Kagan and Scholz's (1984) typology of motivational compliance, while that of game playing was added as a result of further research (Braithwaite, et al., 2007).

The questions measuring the postures of commitment, capitulation, resistance, disengagement, and game-playing were adapted from Braithwaite (2013) (Appendix 4 contains a list of these statements).

Four statements measured commitment. Two items were positively worded; I coded these items on a Likert-scale ranging from "1" (strongly disagree) to "5" (strongly agree). Two items were negatively worded; for these items coding was reversed. I coded each negatively worded item on a Likert-scale ranging from "5" (strongly disagree) to "1" (strongly agree).

Two items measured capitulation, resistance and disengagement. All of these items were positively worded and were coded on a five-point Likert-scale ranging from "1"

³⁵ Braithwaite's motivational postures of commitment, capitulation and game playing correspond to McBarnet's (2001) committed compliance, capitulative compliance and creative compliance.

(strongly disagree) to “5” (strongly agree). Agreement with these questions signalled increased capitulation, resistance and disengagement.

Four items measured game playing. These items were also positively worded and were coded on a five-point Likert-scale ranging from “1” (strongly disagree) to “5” (strongly agree). Likewise, agreement with these statements indicated higher degrees of game playing. More will be said about how these scales were utilized in Chapter 7 in the “Analysis” section below.

I inputted these items into the online survey software Qualtrics and each item was coded using Qualtrics. When inputting the items into this software, I began with a positively worded item followed by a negatively worded item and so forth. I did this to force each participant to think about each statement. Appendix 5 contains the final version of the survey administered to Maltese financial services participants.

The Regulatory Legitimacy Survey was divided into five sections as follows:

- (i) Part 1 contained 8 questions and asked participants for some demographic information, such as the type of institution they were involved in, their role in the institution, the number of times sanctioned and the size of the company.
- (ii) Part 2 contained 85 questions that asked participants about the extent to which their expectations from the MFSA were being met.
- (iii) Part 3 contained 22 questions that asked participants about their attitudes to compliance and cooperation and feelings of obligation to obey.
- (iv) Part 4 contained 2 questions that asked participants about their perceptions of risk of apprehension and risk of severity of punishment.
- (v) Part 5 contained an open-ended question that asked participants for additional comments.

Table 2 – Legitimacy dimensions in survey

Dimension	Number of Items
Competence	8
Empathetic understanding	10
Access and approachability	4
Impartiality	5
Legal certainty	6
Lawfulness	4
Effectiveness	10
Procedural fairness: the quality of decision-making	11
Procedural fairness: the quality of treatment	7
Distributive fairness	6
Responsiveness	7
Trust in regulator and staff	2

4.2.2 Pre-testing the survey

The intention of the pilot phase was to check whether there were any difficulties in administering the survey through an online platform, to determine whether respondents had any problems with understanding the statements, to see if the survey was too long and to establish how long it took respondents to answer the survey, and to try to incorporate respondents' suggestions in order to improve the questionnaire. In order to achieve these goals, I piloted the survey among a small sample of regulatees ($n=26$). A majority of these participants ($n=18$) were selected using availability sampling methods from the list of interviews conducted in the qualitative stage. I selected the rest ($n=8$) by drawing a random sample from the MFSA's financial services register. A referral source contacted 12 participants on my behalf before I invited them via email to participate in an online survey, which they could access through an anonymous link. I spoke to five participants before sending them the anonymous link to the questionnaire. I sent the remaining nine a cold email containing the anonymous link. Qualtrics indicated that 22 individuals accessed the anonymous link, of whom six did not complete the survey. Two participants emailed me to say that they were no longer working with the institution, 1 appeared to have run out of time, while another informed me via email that the survey was too long to complete. In total, of the 26 individuals approached, 16 individuals responded, representing a response rate of 62 percent. Of the 16 individuals who responded to the survey, 12 were individuals who had been contacted by the referral source or by me before inviting them to participate in the online study through an anonymous link. This *prima facie* indicates that individuals were more likely to complete the survey if a person known to them had contacted them prior to inviting them to participate.

4.2.3 Administering the survey and sampling procedures

All of the operators licensed by the MFSA who appeared on the regulator's FSR were inputted into an Excel sheet according to type of licence. The population list was cleaned by excluding the following: (i) cells created in terms of regulation 22 of the Securitisation Cell Companies Regulations (because it was not possible to find any individual representing those cells); (ii) companies that passport their rights into Malta (because they are mainly regulated by their home member states); and (iii) companies whose licences were suspended, revoked, cancelled or voluntarily surrendered (because they were no longer operational). The total

population of operators licensed by the MFSA after cleansing was 1,258. Of these, 278 had multiple licences. These were retained, because where the same operator holds multiple licences, different individuals would deal with the separate MFSA units responsible for those licences and the same operator would therefore have different experiences.

A random sample of 600 operators was selected for the survey and these were sent an anonymous link to the survey on the Qualtrics platform via email (Appendix 5 contains a copy of the email sent to participants). From a legal perspective, it is the board of directors acting as a whole that is entrusted to speak for the company. However, it would have been impossible to obtain a response from every single member of the board of directors. The decision was therefore taken to approach one individual per operator who has been delegated powers from the board of directors (so it can be said that he or she is an agent of the company) and who is in direct and regular contact with the MFSA. These were individuals who occupy key supervisory and managerial roles, namely chairmen, chief executive officers (CEOs) or managing directors, chief financial officers (CFOs), chief operations officers (COOs) and chief compliance officers (CCOs). I then went through every company in the sample list in order to identify individuals with key supervisory and managerial roles and their respective email addresses. I identified these individuals and obtained their contact details through a combination of sources: the FSR on the MFSA's website, the Registry of Companies website maintained by the MFSA, the operator's website, Finance Malta's website, LinkedIn and referees. In the case of some operators, particularly those in the "funds" industry, I realized that the contact person listed on the FSR was the same contact person of another operator. In such cases, I sought to find a different key spokesperson within the operator and his/her contact details to invite him/her to participate in the online survey using the range of sources mentioned above. Individuals were contacted either directly by referees via email (on some occasions with me in copy), by myself via email following an introduction made by referees or directly by myself without an introduction in those instances when I was unable to obtain an introduction (see Appendix 5 for a copy of the email inviting operators to participate in the survey). These latter participants were contacted either by email or through LinkedIn. In 154 cases it was not possible to identify key spokespersons and obtain their contact details. In those cases, I sent an invitation through the operator's website (where the operator had a website) or selected another operator from the sample list.

I also contacted the Malta Banker's Association, the Institute of Financial Services Practitioners (IFSP) and Finance Malta (FM), as these organizations maintain databases of

operators licensed by the MFSA. Contact with these financial services associations was made through Caius. Following correspondence (via telephone calls, emails and meetings) with these organizations, they distributed the survey on my behalf to all of their members. The only organisation with which I experienced some difficulty was FM. In emails leading up to the meeting with the Chairman of FM, concerns were raised about the risk of falling foul of the GDPR regulations,³⁶ a concern that appears to have been heightened by the Cambridge Analytica scandal which erupted around the same period of time (Rosenberg, Confessore and Cadwalladr, 2018). During the meeting, the Chairman of FM reiterated the point that he would need to check whether it was possible for him to distribute the survey on my behalf. After a two-week period, FM acceded to my request and distributed the survey to all of its members. There were some operators on databases maintained by these organizations that also appeared on the random sample list. I did not exclude these operators for a number of reasons. First, sending another email would serve as a reminder. Second, if an individual had already responded to the survey, the same individual would not be able to respond to the online survey again because the software was set to prevent ballot stuffing, that is, preventing the same respondent from answering the survey multiple times.

The databases maintained by the IFSP and FM additionally contained lists of legal, accounting and auditing firms. Although the MFSA does not license these firms, I included them in the study for a number of reasons. First, professional advisors from legal, accounting and audit firms are often engaged when licensed operators encounter problems with the MFSA. Second, operators often go to meetings with the MFSA accompanied by their professional advisors. Third, prospective licensees often engage professional advisors to assist in the licensing process. Professional advisors often become involved in lengthy discussions with MFSA and continue to provide professional advice once a licence has been issued. Fourth, many lawyers and accountants also serve as directors on, and act as external compliance officers for licensed operators. Finally, many financial services lawyers and accountants work in firms that are licensed to provide trust and trustee services and may also themselves be registered with the MFSA to provide corporate services.

Furthermore, I sent 587 follow-up emails to participants. A total of 285 participants accessed the online survey via the anonymous link. After eliminating those who did not consent (4), those who simply clicked on the link but did not continue (26) and those whose survey was substantially incomplete (29), I obtained a total sample of 226 operators divided

³⁶ These regulations. came into force on 25 May 2018 (GDPR FAQs, n.d.).

as follows: 19 (8.4%) credit institutions; 13 (5.8%) financial institutions; 39 (17.3%) insurance undertakings; 32 (14.2%) investment services undertakings; 17 (7.5%) funds; 15 (6.6%) trustees; 55 (24.3%) corporate service providers; 17 (7.5%) law firms; 9 (4%) firms providing accounting, auditing and tax services; 2 (0.9%) insurance brokers; 4 (1.8%) insurance managers; 1 (.4%) insurance agent; and 3 (1.3%) miscellaneous/others. This represents a response rate of 37.6%. I believe the response rate to be lower because the databases maintained by FM and IFSP contained licensed operators not included in the random sample as well as legal, accounting and auditing firms some of which may not have been licensed by the MFSA and so were not on the sample list.

4.2.4 Statistical analysis

Statistical analysis was conducted in Chapters 6 and 7. The software SPSS 25 and SPSS AMOS 25 were employed to analyse the data. The objective of Chapter 6 was to develop regulatory legitimacy scales that measure the perceptions of MFSA legitimacy from the perspective one of its main audiences – operators. After cleaning the dataset (with missing data coded as “999”, I conducted a Principal Components Analysis (PCA) on the 85 items tapping into the BDLs of, or what-mattered to, Maltese financial services operators. This revealed a five-factor solution composed of the following dimensions: rule of law, effectiveness, competence, distributive fairness and responsiveness. I then conducted a reliability analysis by calculating Cronbach’s alpha followed by a Confirmatory Factor Analysis (CFA) on the five-factor model. I based the evaluation of the model on four goodness-of-fit criteria: the minimum discrepancy, divided by its degrees of freedom (CMIN/DF); Comparative Fit Index (CFI); the root square error of approximation (RMSEA); and standardized root-mean-square residual (SRMR).

Although I had developed a set of theoretical constructs reflecting the operators’ BLDs and could have directly proceeded to a CFA, the decision was taken to conduct an Exploratory Factor Analysis (EFA) prior to performing a CFA because this procedure is recommended when developing new scales (Worthington and Whittaker, 2006). I then calculated the composite reliability, the convergent validity and discriminant validity for each construct. Reliability was assessed by calculating the Composite Reliability (CR); convergent validity was assessed by examining the factor loadings and the Average Variance Extracted (AVE); and discriminant validity was assessed by computing the Maximum Shared Variance (MSV), the Average Shared Variance (ASV), the square root of the AVE and by examining

the inter-construct correlations. As can be seen in Chapter 6, the CFA goodness-of-fit statistics for the five-factor model yielded a poor fit and the between-construct correlations for rule of law and effectiveness, for rule of law and competence, and for competence and effectiveness were quite high, demonstrating that the items measuring these constructs were actually measuring the same underlying construct. In order to resolve this issue of discriminant validity two models were created and examined using CFA analysis. The first new model was a four-factor model that combined the dimensions of rule of law and effectiveness into a new dimension referred to as the rule of law 1. The other dimensions remained the same. Therefore, the four-factor model consisted of the following dimensions: rule of law, competence, distributive fairness and responsiveness. The second new model was a three-factor model that combined the dimensions of the rule of law, effectiveness and competence into a new dimension referred to as the rule of law 2. The other dimensions remained unchanged. Therefore, the three-factor model consisted of the following dimensions: rule of law, distributive fairness and responsiveness. As can be seen in Chapter 6, the CFA fit for the three-factor model was better than the four-factor and the five-factor models. Moreover, the results pertaining to the convergent and discriminant validity of the dimensions in the three-factor model yielded more valid measures than those related to the dimensions of the four-factor model.

Turning to the statistical analysis in Chapter 7, the main objectives of this Chapter were to: (a) explore whether it is perceptions of legitimacy (measured in terms of the three-dimensional model) or perceptions of deterrence that have the greatest impact on the motivational postures of commitment, capitulation, disengagement, resistance and game playing; and (b) to explore whether perceptions of obligation to obey mediated the relationship between perceptions of legitimacy and Braithwaite's motivational postures. These questions were addressed using bivariate correlation analysis and ordinary least squares (OLS) regression. Based on other studies when running these regression models, I also controlled for firm size and number of times sanctioned (Paternoster and Simpson, 1996; Murphy, 2005). As can be seen in Chapter 7, I only focused on the outcome measure of positive attitudes to compliance. In this section I wish to discuss how I arrived at this decision and well as describe in brief the statistical procedures used to address the foregoing questions.

The first step was to test the reliability of the motivational postures scales and the obligation to obey scale (see Appendix 6). Reliability was assessed by examining the

correlation coefficient known as Cronbach's alpha. Consistent with Liebling's (2004) research, I employed Cohen and Holliday's (1982) rule of thumb for interpreting this correlation: 0.19 and below = very low; 0.20 to 0.39 = low; 0.40 to 0.69 = acceptable; 0.70 to 0.89 = high; and 0.90 to 1 = very high. As can be seen in Table 1 in Appendix 6, the highest alpha was displayed by the game-playing scale ($\alpha = 0.654$), followed by commitment ($\alpha = 0.582$) and resistance (0.484). The alpha for these scales was in the acceptable range, with resistance falling on the lower threshold and game playing approaching the higher threshold. As can be seen in Table 1 in Appendix 6, the scales of capitulation ($\alpha = -0.052$) and disengagement ($\alpha = -0.283$) displayed negative alphas. Coding for these items was double-checked and found to be correct. Owing to the negative alphas displayed by these scales and consistent with Braithwaite (2009), the capitulation items were combined with the items measuring commitment to form a commitment/capitulation scale, while the items measuring disengagement were combined with those measuring resistance to form a resistance/disengagement scale. As can be seen in Table 2 in Appendix 6, the combined commitment/capitulation scale yielded an alpha of 0.381 and the combined resistance/disengagement scale yielded an alpha of 0.023. The item from the commitment/capitulation scale (I comply with the applicable regulations even though I feel no moral obligation to do so) was omitted and the alpha increased to 0.635 which was on the higher threshold of acceptability. The item from the resistance/disengagement scale (if the MFSA gets tough with the operator, the operator can become uncooperative with the MFSA) was deleted and the alpha improved to 0.418. The resistance/disengagement scale was on the lower threshold of acceptability and was therefore excluded from the remainder of the analysis. The commitment/capitulation scale was renamed as "positive attitudes to compliance" as it reflects postures of accommodation towards the MFSA. More will be said about the reliability of the positive attitudes to compliance scale when discussing the limitations of the regression results at the end of Chapter 7.

Turning to the obligation to obey scale, as can be seen in Table 3 in Appendix 6, this measure displayed a high level of reliability even though it was on the low threshold.

At this stage of the analysis, the aim was to explore: (a) whether it is perceptions of legitimacy (rule of law, distributive fairness and responsiveness) or perceptions of deterrence that have the greatest impact on positive attitudes to compliance and game-playing; and (b) whether perceptions of obligation to obey mediated the relationship between perceptions of

legitimacy and positive attitudes to compliance and game-playing. The data-analytical strategy comprised two steps. I first conducted a bivariate analysis between all key variables. This step was necessary to check for multicollinearity between the legitimacy scales prior to using a series of ordinary least squares (OLS) regression to further explore the relationship between the legitimacy scales, deterrence, the positive attitudes to compliance and game-playing, and to examine the influence on legitimacy independent of or mediated by obligation to obey the MFSA. In order to explore the second question using OLS three conditions had to be satisfied (MacKinnon, Krull and Lockwood, 2000). First, obligation to obey needed to be related to the outcome measures. Second, obligation to obey had to be related to the legitimacy measures. Third, the legitimacy measures needed to be correlated with the outcome measures. In order to confirm the mediation analysis, a Sobel test was conducted.

I now wish to comment on the relationship between legitimacy and the outcome measures as this affects the statistical analysis reported in Chapter 7. As can be seen in Table 4 in Appendix 6, the legitimacy measures displayed very weak and insignificant correlations with the game playing scale. Given the very weak and non-significant correlations, this variable of game-playing will not be considered in the OLS regression analyses examining the relationship between legitimacy, deterrence and attitudes to compliance nor when examining the mediating impact of obligation to obey (Appendix 7 contains a list of all measures along with their means and standard deviations). The mediating effect of obligation to obey was also addressed using the Sobel test. A post-hoc power analysis was also conducted G*Power3.1 in order to calculate the power (or type II errors) for the multiple regression models.

The next three Chapters present the findings of the qualitative and quantitative stages of the research:

1. Chapter 5 presents the findings of the qualitative phase of the research and provides a theoretical grounding to developing a regulatory legitimacy survey.
2. Chapter 6 builds on Chapter 5 by using the results obtained from the interviews to construct and distribute a survey to licensed operators. In Chapter 6 the survey data were analysed using exploratory and confirmatory factor analyses to develop a three-dimensional model of MFSA legitimacy. This model was subjected to reliability and validity tests in preparation for exploring its relationship with order.
3. Chapter 7 builds on Chapter 6 and explores whether it is the perceived legitimacy of the MFSA (conceptualized and measured as a three-factor model) or perceived

deterrence that has the greatest impact on attitudes to compliance. This Chapter also explores whether obligation to obey mediates the relationship between perceived MFSA legitimacy and attitudes to compliance.

5

Reconceptualizing and Measuring Legitimacy: Providing a Theoretical Grounding to Developing a Survey on Legitimacy

5.0 Preliminary

This Chapter presents the findings of the qualitative phase of the research and provides a theoretical grounding to developing a regulatory legitimacy survey. This research adopted the social scientific approach proposed by Tankebe (2014) in the policing context and utilized by Liebling (2004) to develop the Measuring Quality of Prison Life survey, which prisoners regarded as a measure of a prison's "internal legitimacy". This social scientific approach involved a mixed-methods research design that incorporated an inductive and a deductive stage. This Chapter only focuses on the inductive stage (see Chapter 6 for the deductive stage of the research). The inductive stage involved interviews with MFSA-licensed operators. The objective of this stage was to identify: (i) what legitimacy means to Maltese regulatees, (ii) what operators expect from the MFSA, (iii) what the BLDs of operators within the Maltese regulatory context are or, in Liebling's (2004) language, what matters to operators licensed by the MFSA and why. In this Chapter, the themes derived from the qualitative stage are discussed in relation to existing frameworks to conceptualising legitimacy. The concepts or themes elicited inductively from the qualitative stage, then formed the basis of the questionnaire that was administered during the deductive stage of the research.

5.1 Research findings

The moral justification for having the MFSA is that someone has to regulate all these people who are providing financial services in Malta; and it's a strong enough justification, as far as I'm concerned. Of course, that comes at a price, because if you are the appointed regulator you need to be seen as carrying out that role in a manner which is, first and foremost, transparent. Secondly, impartial. Thirdly, effectively, and in all sincerity. (Participant Cassio)

I believe the legitimacy of the regulator is predicated on and conferred by sound policies that are developed, implemented and applied with integrity, independence and competence. OK, so the policies have to be sound and they have to firstly be developed and then they have to be implemented and then they have to be applied with integrity and competence. And independence is to me a by-product of integrity; if you are not independent then your integrity is in some way compromised. (Participant Othello)

The above quotations from the interviews capture many of the dominant themes that resounded throughout the research: impartiality, transparency, competence, lawfulness, and effectiveness. In general, these themes or concepts reflecting the BLDs of regulatees (or what mattered to participants) resonated not only with the Bottoms-Tankebe (2012, 2017) four-dimensional conceptualization of legitimacy (lawfulness, procedural justice, distributive justice and effectiveness) but also with other themes found in (i) the legal literature (legal certainty (Bingham, 2010)); (ii) the prisons literature (leadership and maintaining boundaries (Liebling, 2011; Liebling, et al., 2012b)); and (iii) the psychology literature (empathy (Barrett-Lennard, 2015)). The theme of trust (trust in the regulator by regulatees and trust in the regulatees by the regulator), which cuts across disciplines such as police (Tyler and Huo, 2002) and prisons literature (Liebling, 2004), emerged as a significant expectation. As can be seen in Table 3 below and for conceptual clarity, I divided the major themes or concepts into four overarching conceptual categories: (i) lawfulness (comprising the themes of adhering to the objectives of the law, acting with powers and legal certainty); (ii) procedural justice (encompassing the broad themes of procedural justice in the quality of decision-making and quality of treatment as well as the concepts of good and right relationships and trust); (iii) distributive fairness; and (iv) effectiveness (embracing the dimensions of competence, performance of functions, spirit and the heart of the law, empathy, resources, and leadership).

Table 3. Themes derived inductively from the interviews

Theme or concept	Theoretical basis
Lawfulness dimensions	
Adhering to the objectives of the MFSA Act	Beetham (1991)
Acting intra vires	Coicaud (2002)
Legal certainty	Bingham (2010)
	Bottoms and Tankebe (2012, 2017)
Procedural Justice dimensions	
Procedural justice: quality of decision-making	Leventhal (1980)
	Tyler (1990)
	Tyler and Lind (1992)
Procedural justice: quality of treatment	Leventhal (1980)

Access and approachability*	Tyler (1990) Tyler and Lind (1992) Tankebe (2014) Jackson et al. (2012)
Guidance/helpfulness*	Jackson et al. (2012)
Independence/impartiality**	Sunshine and Tyler (2003)
Voice**	Leventhal (1980) Tyler and Lind (1992) Paternoster et al. (1997)
Good and right relationships**	Liebling (2011) Liebling et al. (2012b)
Trust (in regulator and operator)	Liebling (2004) Tyler and Huo (2002)
Distributive fairness dimensions	Bottoms and Tankebe (2017)
Effectiveness dimensions	
Competence	Sunshine and Tyler (2003)
Performance of functions	Bottoms and Tankebe (2012, 2017)
Spirit and the heart of the law (substance over form)	McBarnet (2001)
Responsiveness	Sunshine and Tyler (2003)
Resources	
Empathy	Barrett-Lennard (2015)
Leadership	Liebling et al. (2012b)
*These themes or concepts fall under the broader theme of procedural fairness in the quality of treatment.	
** These themes or concepts fall under the broader theme of procedural fairness in the quality of decision-making.	

5.1.1 Lawfulness

Three dimensions of lawfulness emerged from the data: (i) pursuing the objectives of the MFSA; (ii) acting *intra vires* or not acting *ultra vires*; and (iii) legal certainty or predictability.

For Beetham (1991) and Coicaud (2002), power is legitimate if it is *acquired* in accordance with the law *and* it is *exercised* in accordance with the law. Bottoms and Tankebe (2012, 2017) drew on these authors to hypothesize that lawfulness (power exercised in accordance with the rule of law) is one of the BLDs that the public makes of police forces. This criterion is similar to Bingham's (2010:60) fourth principle of the rule of law: "ministers and public officers at all levels must exercise the powers conferred on them in *good faith*, fairly and for the purpose for which they were conferred, without exceeding the limits of such powers and not unreasonably". Consistent with the above literature, Maltese financial services participants expected the MFSA and its staff first to exercise their powers for the purposes for which they were given and second to act *intra vires*.

Advancing the objectives of the MFSA and acting intra vires

Concerning the expectation that the MFSA ought to exercise its powers to fulfil its purposes, Tybalt, a partner at a Maltese law firm specialising in providing legal advice to banks and investment services entities, was of the view that regulation should be there to identify manipulators and fraudsters:

Regulation should be there to make sure that you can identify a wolf in sheep's clothing and somebody who is taking the mickey out of you.

He continued to explain that the MFSA must use its powers for *those* purposes:

Now coming back to the powers of the MFSA. To the extent that the powers of the MFSA are used for these purposes then I am fine. The minute those powers are used to go beyond that is where I have the problem.

Furthermore, Kent, a lawyer working in the funds industry, stated that the MFSA ought to justify its powers:

By exercising its powers only if and when and to the extent necessary to achieve the goals for which those powers were vested in the first place ... investor protection first and foremost, but even promotion of competition, and even [the] reputation of Malta etcetera.

Similarly, Prospero, the managing director of a trusts and trustee company, emphasized that the MFSA must not neglect its obligation towards consumers:

[The MFSA's] primary duty is towards the public not towards the service providers, not towards the industry; the growth of industry numbers should not be important.

In addition, Laurence, a director and a compliance officer, linked the exercise of powers in accordance with the law with trustworthiness (another BLD that is discussed in further detail below):

They would be trustworthy if they exercise their powers for the right purpose. Again we go back to protection for investors [and] to protection of the reputation of Malta.

Beyond furthering the objectives of the MFSA (protecting consumers against abuse and protecting the reputation of Malta), participants also wanted the MFSA to act *intra vires* – that is acting within their powers and not abusing of those powers. For example, Rosaline a compliance officer of a large insurance entity, argued that the sector has a “duty towards the

regulator” to treat clients fairly but “at the same time, the regulator has a duty to not breach regulations.” Similarly, what mattered to Portia, a lawyer working in the funds sector, is that the MFSA abides by the law when making decisions:

Anyway, to cut a long story short, the MFSA, after a year of keeping [applicants for a licence] in limbo, issued a directive telling them that they are postponing the decision as to whether to grant them the licence or not ... which the law does not allow [the MFSA] to do.

Portia reinforced this point when I asked her what the MFSA should have done differently:

Well, the MFSA should have taken a decision. It didn't. It did something that the law doesn't grant, in my opinion: the right to postpone a decision. Because the directive says the regulator has to decide within six months.

Macduff, a compliance officer in the funds sector, echoed Dicey's (2013) first principle of the rule of law (lack of arbitrariness) by articulating the expectation that the MFSA ought not to abuse its power by capriciously creating new rules without a legal basis:

[Insofar as] abuse of powers within the MFSA ... they sometimes create rules or demands out of nothing ... yes, in terms of the MFSA Act they are given wide powers, but it doesn't give them the power to harass, it doesn't given them the power to sort of create a new rule which is not even contemplated by ... the directives, by legislation and impose that [rule] arbitrarily through an email. If there is a legal basis for it ... OK ... but to tell someone that in order to do this you have to do that and it is not in the rules, it is not in the rule book, it is not in the law, then quite frankly how come you are applying that to me and not to other people? How do I know you are not applying it to everyone?

For this participant, the BLD of acting *intra vires* also extended to acting in good faith.

The scenarios that follow do not cross the line into outright criminality or malfeasance but can be considered as “misfeasance” or bad faith (McCarthy, 1984; Souryal, 2015). Macduff recounted a negative experience in which an MFSA official asked him “in a very improper manner ... to sign a declaration” that he “had breached MFSA rules” and, when he refused, the MFSA official said, “if you don't sign it you will embarrass us”. He gave another example of the MFSA acting in bad faith, describing a situation in which the MFSA's Supervisory Council prevented the MFSA's Authorisation Unit from issuing a licence of a new sub-fund until they had submitted financial statements. Although Macduff acknowledged that it was an effective way of engendering compliance, he questioned the MFSA's tactic. While not calling it “blackmail”, he believed it to be “a bit unsavoury.”

For Prospero, the duty to act in good faith also extended to not acting like Muir's (1979) "avoider," and not exhibiting wilful blindness or "nonfeasance" (McCarthy, 1984; Souryal, 2015):

Bad faith in the case of a regulator doesn't mean that the regulator tells you "yes, yes, keep on breaking the rules." That would be flagrant. But what if many times the regulator does what is called Nelsonian blindness?

As previously mentioned, an example of the MFSA acting *ultra vires*, and thereby abusing its power, was by arbitrarily creating new rules. This leads to another BLD: that of legal certainty, to which I now turn.

Legal certainty

Bingham's (2010:37) third principle of the rule of law is that "the law must be accessible and so far as possible intelligible, clear and predictable". Participants articulated this principle as one of the BLDs they expected from the MFSA.

Macduff argued that arbitrarily creating rules "is putting Malta in a bad light ... it's is counterproductive. There has to be number one legal certainty". Kent also expressed an expectation of lack of arbitrariness in rule creation: "[the MFSA] cannot come up with a rule whenever it decides and tells me if there is a loss of an asset then the service provider is strictly liable for that loss." Similarly, what mattered to Mercutio, a former director of a large credit institution, was regulatory predictability:

The last thing a regulator should do is spring surprises. So there should also be a latitude, particularly when you have complex systems which are in a rapid state of transition, that one also takes a human perspective towards the ability of an organisation to evolve. And so timeframes should be realistic, no springing of surprises and no changing of goalposts because that really breaks the backbone of an organisation.

A lack of legal certainty was additionally expressed in cases where the MFSA issued unwritten policies. What mattered to participants is that the MFSA should issue its policies in a written format as this contributes to legal certainty. As Portia remarked:

Another negative thing of the MFSA is that, unfortunately, ... every so often they come up with an unwritten policy, and, for us, that's really not on. Because if you feel strongly about it, chuck it in the SLCs [Standard Licensing Conditions], but don't tell me there's another policy that, for example, the compliance officers have to be local. And we have many clients with compliance officers who are not local and then one day [the MFSA] wakes up and you know what? We submit a document to be

amended for a silly thing and they say, “Ah, but the compliance officer here is not local”. No, you approved him. “Well, now we want it to be local, so we’re not going to approve your amendment, unless you change the compliance officer”. Wow! I hate the uncertainty. Tell me a compliance officer has to be a 40-year-old black woman, I don’t care, but at least I know if it’s in the SLCs.

Another participant, Juliet, also questioned whether it is legal to have unwritten policies, linking with the previous theme of lawfulness: “They need to see whether those unwritten policies are actually lawful.” Kent, unlike Portia and Juliet, did not seem to be bothered by unwritten policies, provided that if they were to be changed, the industry must be notified and ideally given a justification, because otherwise uncertainty might result when tendering advice:

Over the years we built a relationship, and this is not just one-to-one but regulator-to-industry. Most MFSA policies are not even written. But industry tends to become, after a certain number of years, comfortable in knowing what MFSA policies are. [The MFSA] shouldn’t ever abuse of the fact that [the policies] were unwritten to change them overnight without pre-advice, because there is a legitimate expectation [amongst] practitioners that what they are doing, what they are advising clients, is in compliance with MFSA policies. So if you are going to change that policy, and if you want me to continue to trust you, do tell me about the change in policies and at least ideally provide me with a justification for that change in policy; but even without justification at least give me due notice.

The BLD of legal certainty was additionally expressed through a need for legal clarity. As Laertes, a partner at an accountancy firm, stated: “You should set the rules very clearly”. Resonating with Laertes’ expectations were Vincentio’s demands that “the intention should be well articulated so that the words of the law cannot be ambiguous so as to lead to more than one conclusion” and that therefore the MFSA must make “sure that the rules are as clear as possible to ensure that practitioners, when advising clients, know what is expected of them”.

For many participants, it was fundamental not only that the substantive rules be clear and unambiguous but also that the MFSA communicate those rules clearly and transparently to enable operators to know what to expect. Otherwise, legal uncertainty could result. For example, Tybalt observed that:

Another problem we have with the MFSA [is that] there are rules, but the MFSA has its own internal policies of how it applies them; but those policies are not available to practitioners so you go the MFSA with something ... ‘Sorry chum we have a policy not to accept this ... it is not in the rules but it is a policy’. I think the regulator should be more transparent. Where the regulator has made policy decisions, those policies

should be in the public domain. People should know what is expected of them. You cannot hold me to a benchmark unless you tell me what that benchmark is. You cannot tell me go running and I don't know where the race ends, whether it is 100 metres, 200 or 300 or 400. I have to know. Am I running a 400-metre race or am I running a 10,000-metre race?

Edgar expressed this BLD for the regulator to be more transparent in communicating its intention by comparing the MFSA to other foreign regulators: “if you look at the FSA [Financial Services Authority] in the UK, or the Irish Authority, they are much more forthcoming with giving perimeter guidance and communicating with the industry what they expect in certain things”. He continued to explain that it is important for the MFSA to communicate its priorities to the industry and to the industry's professional advisors so they know how to tackle problems. Edgar therefore emphasised, “at the cost of being oversimplistic”, that there “should be more clarity on what they are seeking to achieve in the course of the day-to-day regulation and [the MFSA should] communicate that effectively industry-wide”. Benvolio, like Edgar, began by mentioning that the UK Financial Conduct Authority [FCA] goes out of its way to guide the industry to the extent that “the amount of guidance which they issue to the industry is enormous”, admitting that “it's probably a little bit too much”. Benvolio compared this “level of guidance” to a “form of intrusion”, yet argued that it is not “intrusion in a negative way, [it] is setting the scene, and setting a very robust, solid ground” of what the regulator expects from the operator. He then gave the MFSA a score of “one out of ten” on how it goes about communicating its expectations to the industry. Similarly, Rosaline asserted that “from a compliance point of view, it's very important that for certain areas I know exactly what the regulator expects”. Equally, for Malvolio, a partner at an auditing firm, one of the most negative things was receiving unclear communication from the regulator. This respondent deemed clear guidance necessary because “if the guidance is unclear it is very difficult to advise the client as to which way to go”. In a similar vein, Montague expected the MFSA to provide advance notice to the industry of what to expect, because this would reduce “frustration” among operators and improve the relationship between them and the regulator:

If [operators] have advance notification, are really clear where things are going and what demands are being made of them in the future ... short term, medium term, long term ... then there can be more understanding and I think that would really help.

5.1.2 Procedural justice

Tyler's research (Tyler, 1990; Tyler and Lind, 1992) showed that relational concerns have a significant impact on judgments of procedural fairness. Empirical research in policing has demonstrated that judgments of procedural fairness encompass two interrelated elements: (i) the quality of decision-making, incorporating the concepts of openness (transparency), giving reasons for decisions, neutrality, impartiality, equal treatment, consistency, opportunities for representation (*audi alteram partem*) or voice, and honesty; and (ii) the quality of treatment, comprising the concepts of respect, courtesy, approachability and helpfulness (Jackson et al. 2012; Paternoster, et al., 1997; Sunshine and Tyler, 2003; Tyler, 1990, 2003; Tyler and Lind, 1992). While in Tyler's research and in the research it has inspired, procedural justice has been conceptualized as an antecedent to legitimacy, Bottoms and Tankebe (2012; see also Tankebe, 2013) included procedural fairness as a component of legitimacy. Another relational concern – trust – has been conceptualized by Tyler and Lind (1992) as one of the three antecedents to procedural fairness, the other two being the quality of decision-making and the quality of treatment. However, Tyler and Blader (2000) perceived trust as an aspect of the quality of treatment. Research conducted in prisons by Liebling (2004; see also Liebling et al., 2012a) also revealed similar relational concerns – of respect, courtesy, impartiality and trust – that are consistent with Tyler's research. As Liebling et al. (2012b:83) observed, these relational concerns lie at the “heart of the prisons work”.

As can be seen in Table 1 above, Maltese financial services participants also expected relational aspects embodied in the quality of decision-making and the quality of treatment and trust to underscore relationships, resonating with the above research. I will begin with examples of procedural fairness, as many of these are in turn linked to the theme of trust described below.

Quality of decision-making

Transparency and openness in decision-making

For many Maltese financial services participants, transparency and openness were fundamental to having a right relationship with the MFSA. For example, Kent expected the MFSA to “keep a good open relationship” with operators. Similarly, Edgar expected the MFSA to be “more transparent” with regulatees. Indeed, he explained that openness is essential for a “healthy relationship” between human beings. For this participant, transparency was necessary to enable the MFSA to carry out its regulatory function

effectively, a theme that is discussed in detail below: “So if the authority expects to regulate effectively, it should be open with the regulated entities”.

For Kent and Edgar, the demand for the MFSA to act transparently and openly was mutual: the operator must also be open with the MFSA. Kent stated that it was obvious that there “must be a very open relationship in both senses” while Edgar remarked that “regulated entities, by the same token, should be open with the authority”. Other participants echoed this expectation that transparency be mutual. For example, Gertrude, a director of an insurance management company, emphasised that she “would never ever” allow the MFSA to discover “something from a set of management accounts which we would not have informed them about first”. She continued to explain that being open and transparent with the regulator “reflects the manner in which the MFSA treats us”. Similarly, for Othello, a former chairman of a large bank, it was “critical” that “an open line of communication and explanation and openness and transparency” be the foundation of a good relationship between the MFSA and operators. He stressed that the regulated should not view the regulator as an enemy, but as sharing a common purpose, and that having “an open dialogue and a good working relationship” with the regulator was crucial. Resonating with Othello’s comment, Romeo reasoned that it was vital for the MFSA and operators to “live together in an open and transparent manner to ensure that we achieve our goals”.

For some participants, the BLD of transparency or openness was tied with the themes of respect and trust, both discussed separately below. Concerning transparency and respect, Albany, a former CEO of a small credit institution, insisted that “a good relationship is one based on mutual respect and utmost transparency.” Othello agreed, arguing that mutual respect and transparency are ingredients to a good relationship. Moreover, Romeo emphasised that “any relationship between individuals must be based on trust and transparency”, while for Edgar, transparency was a precursor to trust:

An effective regulator has to be open and transparent, and forthcoming with information and when they become cagey and opaque, there is going to be a lack of trust instinctively.

This sub-section demonstrates that what mattered to Maltese financial services operators was that the MFSA acts transparently and openly. However, what does it really mean to act transparently and openly? Transparency involves giving reasons for decisions. It is clear, and consistent with Tyler (1990), that what mattered to these participants was the way the MFSA

arrives at its decision (that is, by giving reasons) rather than the contents of the decision itself.

Romeo described in detail a negative situation that had been ongoing for over 10 years during which the MFSA was refusing to admit shares for listing on the Maltese stock exchange. What irked Romeo more than the refusal to admit the shares to listing was that the MFSA did not give the operator a “plausible justification” or a “reason” for the refusal. Even when Romeo “challenged” the regulator as to why the MFSA refused to allow the listing of the shares, the MFSA provided a number of excuses (such as “that is the advice we got from the EU”) without offering an actual reason. Accordingly, what mattered to Romeo was that the “regulator has to be transparent enough to say ‘Listen, we have come to this conclusion because of this, this and that’ ... allowing us to challenge them, allowing us to come up with our own arguments”. Analogously, what mattered to Edgar was that the MFSA should act transparently by giving reasons for its decisions:

Like every other agency, it should exercise [its powers] in terms of the principles of natural justice, being clear about the reasons for which it is exercising the power, communicating publicly why it has exercised that power, and what the implications are with the licensees, on the industry, or whatever it is. To summarise, I would say transparency, for sure; I’m a very big fan of transparency in the way that powers are exercised.

Similarly, what mattered to Gloucester, the head of an organisation representing the interests of licence-holders, was not that the MFSA “didn’t accede to [the] request”, but rather that the operator knows *why* the MFSA refused to acquiesce. Consequently, Gloucester maintained that “in a good working relationship, like any other relationship, whether between a husband and a wife [or between] a bank [and] a borrower, you need openness and not secrecy”. Accordingly, Cassio compared an excellent relationship between the MFSA and an operator with a “parent having a good relationship with his or her children, or an employer having a good relationship with his or her employees”. Cassio, akin to the respondents above, contended that rather than “imposing things and running roughshod over [regulated] entities”, the MFSA can “encourage a healthier relationship” by “openness ... in the need to provide the requested information”.

Cassio, like Edgar, also expected the MFSA to justify its authority by acting transparently by explaining why it had exercised its powers in a particular way. Cassio explained that in the absence of self-regulation, the moral justification for having the MFSA is the necessity of having a body that regulates all those who offer financial services in Malta.

He cautioned that having a regulatory authority with a vast array of powers “comes at a price, because, if you are appointed regulator you need to be seen to be carrying out that role in a manner that is first and foremost *transparent*, [and also] impartially and effectively”, themes discussed in greater detail below. Cassio continued to reason that transparency is “important” because the MFSA, in claiming that it exercises its authority in a legitimate manner, “should have no difficulty whatsoever in exercising that authority in a manner that is fully transparent, open to all, so that if there are any doubts as to the exercise of that authority, then they can be aired, they can be challenged, they can be defended”. For Cassio, impartiality flowed from transparency:

I need to show, as the regulator, that the way I treat [Operator X] is the same way that I treat [Operator Y] because if it is open to discussion, or if there are doubts about that, then, again, I am not fulfilling my given authority.

Although Cordelia, a lawyer advising credit institutions, argued that the “MFSA is not obliged” to provide reasons for its decisions, like Cassio she reasoned that in order for the MFSA to justify its authority it was crucial that it do so in order to enhance its transparency. She also agreed with Cassio that “the [MFSA] should explain so that the sector can see it as impartial ... and respect [its] authority”. Cassio’s and Cordelia’s comments resonated with Tyler’s (2003:298) argument that “authorities benefit from openness and explanation because it provides them with an opportunity to communicate evidence that they are neutral.” Before discussing the theme of impartiality as it is linked to transparency, it is essential to delve into another theme that is connected with openness: that of honesty and integrity.

Honesty and integrity

In the context of trust, O’Neill (2002:70) argued that transparency “certainly destroys secrecy” but does not limit deception. Indeed, an individual can be transparent by providing all of the necessary information and giving reasons for decisions, but this information may be false and the reasons may be disingenuous. Acting honestly is therefore of paramount importance. Honesty has been conceptualized in various ways: as an element of trust, as an element of the quality of decision-making, and as a component of the quality of treatment. While measuring the dimension of staff-prisoner relationships, defined as “trusting, fair and supportive interactions between staff and prisoners”, Liebling et al. (2012a:367) included an item that incorporated both honesty and integrity. Similarly, Sunshine and Tyler (2003) also included an item measuring honesty when operationalizing the concept of trust as a sub-

dimension of legitimacy. However, Sunshine and Tyler (2003) in different studies also included an item (“the police provide honest explanations for their actions”) when measuring both the quality of decision-making and the quality of treatment. I believe that this item should have been included under the quality of decision-making rather than the quality of treatment as it pertains more to the concept of transparency, that is, giving reasons for decisions. This is why I am discussing the concept of honesty under the quality of decision-making.

Consistent with the above research, Maltese financial services participants expected the regulator to act honestly and in a manner that displayed integrity. For example, Benvolio recounted a negative experience with the MFSA that involved a prospective licence-holder retracting an application “because all the things that [the MFSA] had told [them] wouldn’t be an issue, became issues, and they were not willing then to stick to their word”. What Benvolio expected was for the MFSA “to stick to what they had said at the time without beating around the bush”. Essentially, what mattered to Benvolio was that the MFSA “give it to him the way it is”. As Kent also observed, it is essential that there be “a very open and honest relationship ... one where you don’t need and shouldn’t assume all the time that it will be a ‘no’”. Similarly, what mattered to Octavius was that the MFSA be “upfront with the industry” and say something along the lines of “Listen, guys, don’t get that work [to Malta] because we don’t want it”. More emphatically, Malvolio stated that “transparency is key, and *then* the honesty to say it as it is”. Moreover, Cornwall simply stated, “they have to be clean, honest and transparent”. Mercutio’s perspective accorded with that of Cornwall, arguing that he expected the MFSA to value “cleanliness” when carrying out its functions. In this sense, an overlap exists between the theme of lawfulness and honesty. This overlap was particularly evident when Caesar recounted an experience in which the MFSA asked him to breach the bank’s know-your-client policy. He angrily asked, “Why? Is that honesty?”

The requirement to act honestly was linked with the theme of integrity as was evident when Prospero explained what he expected from the MFSA:

Its organs, [that is] the chairman, board of governors and the supervisory board [should be] composed of people of integrity, having a spine. I am not saying that the people on the executive board are dishonest but ... you not only want a person who is not dishonest but [you need someone who] when, there is need, [is prepared] to ... stand up and be counted even if it makes [him] unpopular ... it is difficult work ... not only not being dishonest but being honest to the point that you can make a stand on a point of principle.

For Iago, the expectation of acting with integrity was tied to acting in an unbiased manner, that is, impartially: “integrity to take decisions on the basis of what is good and bad not on what one wishes”. Moreover, for Othello, the authority of the MFSA would be justified if, *among other things*, policies are “developed, implemented and applied with integrity”.

Representation and voice

The respondents not only expected the MFSA to act transparently, openly and with integrity, but also that it allow sufficient “opportunities to take part in the decision-making process” (Paternoster, et al., 1997:167). This principle of natural justice – *audi alteram partem* – was clearly articulated by Tybalt:

The one thing that really bothers me at the MFSA is how they run investigations, how they take it to the Supervisory Council, how you are not allowed [to put forward your arguments] ... if at least one were permitted to make representations directly to the Supervisory Council and it is then up to it to decide, I am not going to dispute that but at least allow the regulated entity to have a voice to be able to address the people who have the ability to sanction it. You should not rely on the executives within the MFSA itself to make my case. No, if they make their case, allow me to make my case and not somebody else who is part of the same system that is going to sanction me. I think that the way they do it is illegitimate. I think it runs counter to one of the fundamental principles of a fair hearing and I have said this so many times and I’m waiting for the first opportunity to contest it constitutionally.

Other participants expressed similar expectations. For instance, Bassanio, a compliance officer at a large credit institution, expected the regulator to “hear the bank’s views and the bank’s position before issuing certain statements in the media”. Gratiano, the MLRO of a large bank, also echoed Bassanio’s call for “representation” (Leventhal, 1980):

I think what we expect is that ... they don’t arrive at conclusions and put that down on black and white or communicate that with other regulators prior to discussing it with the bank. Why? Because we might have not described the position clearly or they may not have understood the position, so there might have been a misinterpretation or misinformation because when you are discussing something you might lose a word and that word is the focus of everything. So I believe that prior to issuing any reports or decisions, they should be done in draft form and discussed with the subject person to see that everything is in order, that what has been said is actually recorded.

Similarly, Banquo, the CEO of a small credit institution, expected the “MFSA, as our host regulator, [to] have listened to us first and foremost and understood what was going on and asked us to explain our position and not to merely accept what somebody else was saying”.

The interviewees not only desired adequate opportunities to present their submissions, consistent with the Tylerian model of regulation and expressed in the “maxim denoting basic fairness and a canon of natural justice”, that of *audi alteram partem* (Gray, 2006a:32). They also demanded that the MFSA gives the *industry* a *voice* – a broader concept than an operator simply being able to state its argument in a case – through a “dialogic approach” (Bottoms and Tankebe, 2012) with the industry. What mattered to participants was that the MFSA ought to seek to engage in a conversation with the industry and with individual operators, thereby giving the industry and individual operators a voice and confirming their status (Tyler, 1990) within the Maltese financial services sector. The following quotations demonstrate this point:

I would expect them to have much more dialogue with the industry. They’re not out there at all. (Benvolio)

[The MFSA should] have an open table with all the operators within the market; and where there are ... issues that possibly could be discussed, and a solution within the realms of the law could be found with all the operators, then adopt it. (Brutus)

They have to talk to the industry. If you remain in your shell, thinking only about regulation and going to meetings with other regulators abroad and always listening to regulation and regulation, and regulation, there’s no way you’re going to understand the industry. (Angelo)

Independence and impartiality

The Maltese financial services participants expected the MFSA to (i) have acquired its powers independently and (ii) exercise its powers impartially. Both independence and impartiality are, like representation, BLDs that are necessary for the right to a fair trial, embodied in Bingham’s (2010) seventh principle of the rule of law. The BLD of impartiality is also a sub-component of procedural justice in the quality of decision-making and is generally referred to as the “neutrality of decision-making” (Bradford, et al., 2015; Jonathan-Zamir, Mastrofski, and Moyal, 2015; Murphy and Tyler, 2017).³⁷ I will begin with independence.

What mattered to participants was that the MFSA be *completely* politically independent. Macduff questioned how the government appointed the chairman:

³⁷ Strictly speaking a difference exists between the neutrality and the impartiality of decision-makers. Whereas a neutral decision-maker is uninterested or bored, an impartial decision-maker is objective and not influenced by personal feelings or considerations (Collins Dictionary, 1998; Chambers English Dictionary, 2016). In this research, it was clear that participants expected the regulator to be impartial rather than neutral.

You have the Chairman appointed by the Prime Minister. Seriously? The board of governors appointed by the Prime Minister. Why? Why? Why the Prime Minister? You can't [have this]. It's obvious what is going to happen. The MFSA becomes an extension of the government of the day. How is that right? How is that prudent?

Macduff's expectation of political independence was echoed by other participants. For instance, Banquo perceived the MFSA as lacking independence because the MFSA's board is "appointed by government". He argued that "being a director should be a position that is permanent, not because you are placed there because you are the Minister's friend". Likewise, Cassio expects more "independence than there is today". For Cassio, like Macduff and Banquo, the fact that appointments "are made directly by the Prime Minister" with the "leader of the opposition being informed" is "definitely" not enough to guarantee independence from the state. Consistent with these respondents, Demetrius expected the MFSA "to be as independent as possible". Indeed, he made the same argument: "Given our situation where the appointments and senior appointments are made by politicians, it is very difficult to have a truly independent MFSA".

Similarly, Regan, a partner at an auditing firm, cautioned that "we should not allow politicians to put people on the board of the MFSA, depending upon who was their massive canvasser in the run-up to the [general] elections".

What mattered to participants was not only that the MFSA be independent of government but also that the MFSA act impartially, that is, that the MFSA ought to act without fear or favour by resisting political pressure, by avoiding conflicts of interest, by avoiding conflicting roles, and by treating operators equally.

Tybalt deemed the MFSA's sanctioning process to be "a major flaw in the way the MFSA works" because it lacks impartiality. He described the procedure employed by the MFSA to impose sanctions against operators. In this regulatory process, the employees at the MFSA who investigate an operator are the same persons who decide whether the operator infringed the relevant regulations, and when the operator is sanctioned these figures also enforce the decision. Accordingly, for Tybalt, the fact that the MFSA acts as "judge" and "executioner" shows that the system "is flawed and needs to be addressed". In addition, for Tybalt it was crucial that the MFSA operate without fear or favour (and hence impartially) by taking decisions in line with the law, rather than seeking to assuage public opinion and public pressure:

I think it was a bad experience because notwithstanding the technical opinions, the evidence, and the significant effort we put into explaining technical issues, they still got it wrong and the niggling feeling about it is that they got it wrong because of reasons that fall outside the parameters of applying the regulation. It is because they wanted to allay public concern, it is because the sympathy will always shift towards the small investor. ...There was one particular crusader who said that he was the crusader of the small investors. [He] was putting the MFSA under huge pressure, and the MFSA, in my view, succumbed to that pressure.

It is also essential that the MFSA act impartially by resisting political interference. As Othello eloquently argued, “the regulator must be prepared and enabled to do the right thing without fear or favour and therefore it needs to be independent and if, as is often the case, there is political interference then I think that affects its independence”. Echoing Othello’s demand, Mercutio insisted that it was crucial that the MFSA avoid being hijacked by “political or individual undertones”. Moreover, for Rosaline, opposing interference was necessary for the MFSA to be able to carry out its functions effectively:

I don’t think the MFSA is not independent, but I do not think that as a sector you can say that there is enough comfort, 100% comfort, that the MFSA can take, or individuals within the MFSA can take, decisions without any interference at all. And not just that. One of [the MFSA’s] functions is also to advise. It is important that it can give that advice, and that it can exercise that function without hindrance.

Respondents also expressed an expectation that the MFSA acts impartially in terms of avoiding conflicts of interest. For Prospero, it was essential that the regulator does not promote financial services because any such promotion jarred with its supervisory function:

I think the MFSA continuously loses sight of its primary objective; as a matter of fact one of the criticisms that Sven Giegold [a Member of the European Parliament] made of the MFSA is that the Chairman, is [also] the Deputy Chairman of Finance Malta [whose function is that of] promotion. A regulator shouldn’t be a salesman.

Although Demetrius was uncertain whether the MFSA continues to engage in a promotion function, his reasoning supported the demand made by Prospero:

There was a time when the MFSA also had the role of ‘selling’ the financial services industry abroad. In theory, it made sense; in practice it is not quite right. [There needs] to be some clear demarcation between being the regulator and being the promoter of financial services in Malta. How you bridge that is always going to be a bit of an awkward situation because the promoter needs to be aware of what the legislation is because he is going to be asked questions when he is promoting [the sector]. But at the same time the regulator cannot be seen to be promoting an industry that it is regulating and so it is a catch-22 type of situation.

Aside from acting impartially by avoiding conflicting functions, operators also expected the MFSA to act impartially by treating operators equally. As Tyler and Lind (1992:141) argued, “[w]hen considering whether an authority is displaying neutrality, people focus on whether the third party creates a ‘level playing field’ by engaging in even-handed treatment of all involved”. Many of the Maltese financial services participants employed the same “level playing field” language as Tyler and Lind. In particular, the respondents felt that the MFSA must ensure that the rules are the same for everyone and that the MFSA avoids engaging in preferential treatment. I will begin with the equal treatment portrayed in the expectation that rules are applied equally, a BLD consistent with Bingham’s (2010:55) fifth principle of the rule of law: “the laws of the land should apply equally to all, save to the extent that objective differences justify differentiation”.

What mattered to Romeo was that the MFSA should ensure that all licence holders comply with the law, a reflection of the theme of effectiveness discussed below. However, Romeo perceived, in Orwellian terms, that at times “the law is not equal for everyone”. He expected the MFSA to apply the law equally to ensure “high standards of behaviour from all licence holders” and stressed that it should not be “a question of two weights, two measures”. Cornwall, like Romeo, expected that the rules to be the same for everyone. In arguing that the regulator must make a rule for everyone “from the Prime Minister down”, Romeo’s position resonated with Fuller’s dictum (cited in Lord Denning’s (1977) judgment in *Gouriet v Union of Post Office Workers*): “be you ever so high, the law is above you”. Resonating with Tyler (1990, 2003), some participants articulated the demand of equal treatment in terms of fairness. For example, in line with Romeo’s expectation, what mattered to Brabantio was that the MFSA apply the rules equally to ensure “a level playing field” and that “everyone is treated fairly”.

Other participants linked fairness with the equal application of rules. For instance, Caliban reasoned that because the MFSA expected *operators* to treat customers fairly then the MFSA itself ought to treat operators fairly. Furthermore, to Caliban, fairness meant that the MFSA should adopt a non-discriminatory approach to enforcing rules, given that to do otherwise would create an “uneven playing field”:

Those companies that are always complying with all the requirements don’t seem to be treated any better than those that habitually fail to meet deadlines.

Similarly, Kent expected the MFSA to treat his company fairly, perceiving that fairness means that the rules are the same for everyone. Consistent with Brabantio and Kent, Claudius, a director in a corporate service provider, believed that fairness means that a rule should apply to everyone. He explained that rules should not be imposed “arbitrarily” (thus resonating with the theme of lawfulness) and that “fair means it applies to all”. Echoing the expectations of Romeo and Brabantio, albeit expressed in negative terms, Macbeth equated “unfairness” with the regulator “applying different weights and different measures”. In this sense, fairness in the equal application of rules and therefore the broader theme of equal treatment is linked with the theme of consistency discussed in the following sub-section. Nevertheless, the respondents did not all share the same understanding of “fairness” (Tyler, 1990). Whereas Tybalt expected the MFSA to be fair in the application of the rules, to him fairness did not mean equality. However, others (like Brabantio, Kent and Claudius) interpreted fairness as equality. For Tybalt, fairness meant not employing a one-size-fits-all approach and instead making evaluations on a case-by-case basis. He cautioned that to apply a regulation fairly, the wording of the law must be clear so as not to give rise to more than one conclusion (a point connected with the theme of legal certainty discussed above). Consequently, for Tybalt, fairness, expressed in the same language as Ginsberg (1965), meant that “unequal circumstances deserve to be treated unequally”.

Another aspect of the quality of decision-making that makes procedures fairer is *consistency* (Leventhal, 1980). Paternoster et al. (1997:168) explained that one aspect of consistency is “consistency in treatment over time”, whereby individuals expect to be treated in the same way as others. In this sense, the theme of equal treatment can also be considered as an example of consistency. The other aspect of consistency identified by Paternoster et al. (1997) is where individuals expect the same rules to be applied. This demand also mattered to Maltese financial services, as evidenced in the following quotations:

Wherever there is a law ... there is also a subtle grey area. There, obviously, you see a lack of consistency in interpretation. (Roderigo)

There is definitely inconsistency ... there are the rules and the rules need to be consistent. (Albany)

The participants also expected the MFSA not to engage in preferential treatment vis-à-vis operators, as this would demonstrate unequal treatment and a lack of impartiality. The examples cited below concerning preferential treatment can also be considered as cases of unequal application of the rules. However, the reason why equal treatment in the form of

equal application of rules was considered separately from preferential treatment was that in the above examples no reference was made to favouritism. (Regardless, this is not to suggest that favouritism could not have been the reason behind the law being applied unequally.)

Cordelia argued that the MFSA should apply its powers in an equal manner. She specifically linked impartiality to preferential treatment by perceiving that the MFSA acts impartially as “they don’t discriminate between one entity and other”. Other participants also expected the MFSA not to grant preferential treatment to any operators (and by implication demanded that the MFSA act impartially), but held a different perception from Cordelia. In the examples that follow, preferential treatment was attributed only to the higher levels of authority within the MFSA, in particular, the former Chairman of the MFSA (and in this sense, the BLD is linked to the next theme of maintaining boundaries).

Employing the phrase used by Tyler and Lind (1992), Macduff stressed that “there has to be an equal playing field for all”. He loathed hearing other operators saying that they “called the Profs” (a reference to the former chairman of the MFSA) to obtain preferential treatment. He argued that this favouritism can cost the MFSA its reputation:

“What do you mean, ‘call the Profs’ to get something done!? ... Are we going to be a reputable financial centre or are we going to be another Cyprus?”

Like Macduff, Prospero also expected the MFSA to treat *all* operators equally by not engaging in preferential treatment and he too alleged that the former Chairman of the MFSA engaged in unequal treatment:

The MFSA doesn’t treat licensees in the same consistent manner; that is, there are certain licensees who are favoured. Now I will say it again that the fault doesn’t lie with the staff or the senior staff but the problem lies above, from up top. Staff are then instructed to deal promptly with certain people, to close an eye, to just tick the boxes and not to investigate the substantive merits of the case.

For Prospero, impartiality, preferential treatment and maintaining boundaries (discussed below) were all tied together:

The common thread is one: a lack of an independent, impartial and objective treatment of licensees because it was vitiated by contacts; in a few words, if your license application in Malta gets held up and it is taking long, just call up Joe Bannister, and he arranges things for you; if you don’t talk to him you will remain stuck for 3 months, 6 months, 9 months toing and froing, asking you this and asking you that. Then one fine day somebody tells you ‘let me speak to this guy’ and all of a

sudden you get all the approvals. You can see ... the lack of spine, the lack of principle, the lack of impartiality.

Prospero's concerns were also reflected by Oberon, who rationalised that preferential treatment and thus a lack of impartiality was due to overfamiliarity with the former Chairman of the MFSA:

I mean there are also people who will tell you, 'I call Joe Bannister', he gives me an appointment quickly, and I go and speak to him, and he arranges everything for me, so it has become a bit like that. And then of course the intermediaries or the practitioners who also are more important than others, because of their political connections, they get even faster tracked. I think a change is needed.

Similarly to the participants mentioned above, Cornwall perceived that some operators are favoured over others due to their connections, giving rise to unequal treatment. Cornwall therefore expected "a rule for everybody" and "not [to be able to] bend the rule because you know the Chairman or because the Chairman is involved".

Puck, a small operator, also expected the MFSA to create a level playing field, but in contrast to the previous participants, blamed the lack of a level playing field on the clout of "powerful companies":

What I don't like, but again this is just rumours, is that sometimes they don't ensure a level playing field; so they might process something quicker if you are maybe one of the Big Four or something like that.

In this section references were made to the upper echelons of the MFSA exhibiting overfamiliarity with certain operators, compromising the Authority's impartiality. What mattered to participants was that the MFSA acts in an unbiased manner by seeking to maintain a boundary between itself and the operators (Liebling et al., 2012b).

I will expand on this theme and on its link to impartiality below.

Maintaining boundaries – good and right relationships

In her discussion on staff-prisoner relationships, Liebling (2011:488) drew a distinction between "good" and "right" relationships. She explained that whereas good relationships are characterised by closeness, informality and a lack of boundaries, right relationships lie somewhere between formality and informality. In my study, Donalbain echoed Liebling's distinction between good and right relationships when he lamented that top-ranking MFSA

officials mingled too closely with certain operators. He expected the MFSA to maintain an appropriate boundary even when in close contact with operators.

Cassio, like Donalbain, explained that it was important for the MFSA not to socialise or fraternise with operators. Unlike Donalbain, he argued that the MFSA should seek to emulate the “very strict” boundary that Maltese judges used to erect between themselves and the public:

Let me give you an example. In the past, judges had very strict instructions that there were only a limited number of social events they could attend. Today, this has been thrown out of the window. I really think that anyone who [is] in a position where he or she is going to decide [like a] judge ... should be very aloof. Even insofar as social interaction is concerned, they have to keep that to a bare minimum. So at all events that are hosted in Malta, I really think that the MFSA officials should be conspicuous by their absence. One does get the impression that sometimes certain officials hobnob with certain players in the industry, and not with others. And that, unfortunately, sends the wrong message.

This comparison with the boundary that Maltese judges of old used to keep with the public was also expressed by Macbeth. He argued that MFSA officials should maintain a strict boundary lest their impartiality be compromised and they act like one of Muir’s (1979) “reciprocators”:

I expect the MFSA to be at two arms’ length not just one arm’s length from the industry that it is regulating. One guy, when he was Chief Justice and when he was a judge, wouldn’t even accept a wedding invitation unless it was from a very close member of his family; he wouldn’t accept an invitation for any social engagement unless it came from government. He wouldn’t engage in social conversations. He had a restricted number of friends. He used to [say] ‘Listen, if you ever aspire to be a judge you have to be able to sit in judgment over anyone and if your next door neighbour has committed a capital offence then you should have absolutely no problem sending him to the gallows’ and that stuck in my mind because it is the essence of a judge.

The link between impartiality and maintaining boundaries was expounded by other participants, too. Malvolio explained that it was crucial for the MFSA to “avoid being overly familiar” and it was accordingly critical that the “people working at the MFSA [not to have] too close or personal a relationship with any of the operators”. While acknowledging that the MFSA had recently ceased the practice of accepting Christmas hampers from operators, he explained that it was important to maintain a certain distance because otherwise the Authority’s impartiality might be threatened:

Because, at the end of the day, the regulator is going to have to take a decision, not in the interests of the operator, but in the interests of the wider society. If you become too familiar, you run the risk, I suppose, of taking a decision which may be impacted by that overfamiliarity.

While acknowledging that it was imperative for the MFSA to maintain an “open line of communication” with operators, Puck emphasised that the relationship had to have “boundaries.” In line with other participants, he referred to “boundaries” as a relationship that “can’t be ... familiar to the extent that independence is compromised”.

Donalbain admitted that ensuring an MFSA that is totally independent and impartial is difficult. He attributed this problem to Malta’s small size and to the “friends-of-friends” culture (Boissevain, 1974) in the country. Donalbain’s point was reinforced by Macbeth, who explained that it was of particular importance that the MFSA be “absolutely independent and impartial” because Malta is an island “17 miles by 5 miles” and “if you are well connected, you know half the population either by relationships, or by friendships or by going to school”. For Macbeth, therefore, the maintenance of boundaries was an essential condition to ensure that the MFSA could be regarded as “truly independent”, because “if I come along as the chairman of a [large bank] and the guy at the other end of the table has either been to school with me or is the cousin of my wife ... [the regulator] has to be independent enough and away from mainstream society to be able to put [me] out of business or do whatever the regulations allow him to do”.

The BLD of maintaining boundaries was regarded not only as necessary to avoid a relationship becoming so overfamiliar that it would compromise the MFSA’s independence and impartiality, but also as essential for the MFSA to conduct its functions effectively. This BLD is related to impartiality because it could be argued that if the relationship becomes too close, the MFSA would not be able to act without fear or favour. For example, Iago explained that it was vital that the regulator maintain some distance “because familiarity breeds contempt”, which could possibly lead to the regulator “being a bit lax, which is not good”. Mercutio echoed Iago’s reasoning, employing the same expression: “as we all know, familiarity breeds contempt and then weaknesses start coming in”, leading to the MFSA being overcome by external pressures. Consistent with Mercutio and Iago, Tybalt argued that because the regulator is there to ensure that operators comply with their legal obligations, it is essential that the regulator does not “create huge familiarity between the regulator and the regulated”. Likewise, Coriolanus explained that given that the MFSA is a gatekeeper as well

as a supervisor, it is essential that it maintains a boundary so that it is not influenced by the entities that it allows through its gates (that is, licensed entities). He stressed that:

If people are just able to pick up the phone and tell someone [at the MFSA], ‘Listen, I want to change this, and do this and that’, it’s going to be a bit of a problem.

Although operators expected the MFSA to maintain a boundary between itself and the industry, with some operators demanding that this become stricter, several participants also expected (as was alluded by Donalbain at the beginning of this sub-section and as will be made clearer in the next section) the MFSA to be approachable, accessible, helpful and respectful, all aspects that Liebling (2011:488) has termed “right relationships”. I now turn to examine these other relational themes embraced under the quality of treatment.

Quality of treatment

Approachability and accessibility

In the policing context, Jackson et al. (2012) conceptualized *trust in procedural justice* in terms of, among other things, the concepts of approachability, friendliness, and helpfulness. While measuring treatment by police supervisors, Tankebe (2010a) included an item that tapped into approachability. Moreover, in the prisons context, prisoners also expected prison staff to be approachable (Liebling, 2011). Resonating with this literature, what mattered to the Maltese financial services participants was that MFSA was approachable, friendly and amenable to discussion. I will provide some examples of this BLD hereunder.

For Brutus, a good working relationship meant that the regulator is “approachable” and “amenable to discuss things”. He emphasised that the regulator does not need to lose these traits when conducting its function as a regulator. Brutus perceived the MFSA as approachable when he sold his business to another operator and he regarded the regulator’s handling of the matter as a very positive experience. Similarly, for Gertrude, the approachability of the regulator was “the most important thing” and the one aspect that must not be lost. Indeed, she emphasised that approachability is “what operators want” and necessary to the industry: “you want a regulator that is regulating you, but not one that’s making life a misery, not one that’s making it impossible for you to operate”.

Other participants held contrasting perspectives, yet the expectation remained the same: the MFSA should be approachable. For example, Kent recalled what he termed the

“Golden Age of the MFSA”, explaining that he favoured this period not because the MFSA had allowed operators to run amok, but because it was approachable:

You could pick up the phone ... reason things out with them, try to reach a balanced situation.

Octavius reasoned that operators do not need a regulator that is relaxed and lenient; on the contrary, what is needed is a firm regulator. Nevertheless, he stressed the importance of the regulator being approachable, something that “in the past was better”. His justification chimed with Gertrude’s in that he explained that it was necessary for the regulator to remain approachable because it helps attract business to Malta. He added that although the MFSA still sells itself as being approachable and flexible, some operators are changing their views. He suggested that he sometimes felt like he was “covering up” for the MFSA by giving the impression to clients that the MFSA is approachable and flexible. Echoing the sentiments of the previous participants, Edgar perceived that in the earlier days of the MFSA and at the start of his own career, the MFSA was more pro-business and more approachable:

They were keen to learn. So our clients flew in and walked [the regulator] through their model ... [The regulator] really took it on board, they had the humility to sit down and listen to the client.

Donalbain had mixed views. At times he found the MFSA to act in a “cumbersome” manner by sending long letters and by getting drawn into lengthy exchanges, while at other times he found the MFSA to be approachable: “at other times, it’s very open to sitting down and finding a solution” without the need to impose a fine (although in other cases it did so anyway). Donalbain explained that the MFSA was open to discussion provided that space existed for this purpose. It was therefore the process that mattered to him rather than the final outcome (Tyler, 1997). Regan, like Donalbain, echoed the primacy of process over outcome, in line with the process-based model of regulation (Tyler and Blader, 2000):

We are used to a different MFSA, a much more receptive MFSA where you would sit down and have reasoned arguments. We didn’t necessarily agree, but you could sit with somebody intelligent across the table and have a discussion between two professionals. And you come out and say, ‘OK, maybe the result wasn’t what I wanted, but at least I had a healthy discussion and debate’.

In this sense, the theme of approachability (in terms of readiness to discuss) is linked with the theme examined above: representation.

Some participants did not expect the MFSA to be approachable, reflecting the theme of maintaining boundaries, discussed above. For example, Demetrius was regularly perturbed by the way in which the MFSA is promoted when he attends conferences, specifically as a regulator that is “fair, but sort of flexible, easy to get along with”. He contended that a regulator should “be approachable and available” yet he perceived that the “elastic band” was being stretched to the extent that the boundary between the MFSA and the operators was being muddled. Coriolanus, like Demetrius, expected the MFSA to be approachable, but tempered this demand. He argued that the regulator must be approachable not to operators individually but to the sector as a whole. Rosaline was more emphatic than Coriolanus and Demetrius and expected the MFSA to maintain a very strict boundary between itself and the operators:

I wasn't always very keen on this idea of a regulator that is very approachable and meets operators etcetera, because a regulator that doesn't do that is not necessarily not good.

When referring to “one of the main advantages of the MFSA” being “approachability”, Oberon actually meant *accessibility*, that is, that MFSA officials are easy to reach by phone or email and are not hard to meet:

As I said before, they are approachable enough ... it is an advantage that we have in Malta ... that you grab the phone and talk to them and they give you an appointment, and we send them an email, and they reply.

So that's one good experience. Ultimately, they are approachable. It is a big advantage... [that] in Malta the regulator is a phone call away, it is just a short meeting, a few days away usually. And I think it is a big advantage and something we should pride ourselves in.

It is not clear whether Brabantio, like Oberon, confused the notion of approachability (that is, whether the MFSA is welcoming and easy to talk to) with the notion of accessibility (that is, whether the MFSA is able to be reached). Brabantio argued that “theoretically we have a regulator that is approachable”. He acknowledged that he was unsure of the extent to which foreign regulators are approachable, but nevertheless claimed that the MFSA's approachability is something that Malta sells to attract investors:

I may have a client who would want meetings with the regulator, and I can pick up the phone, I can send them an email, I can set the meeting, and I meet with the supervisory unit. I meet with the authorisation unit, and I have the top people over, people who I know.

Although Brabantio initially referred to the notion of accessibility, he then alluded to the theme of approachability by stating that “we can have very meaningful, cordial discussions to discuss issues of relevance or of importance to the client”. Regardless of whether he was conflating the notions of approachability and accessibility, both were normative demands made to the MFSA.

Other participants were clear about their expectations of regulatory accessibility in terms of whether the MFSA is easy to reach via phone and whether it is uncomplicated to meet – even though perceptions differed as to the degree of accessibility. For example, Caliban, the CEO of a large insurance company, noted that in the past the MFSA was more readily available. Certainly, he observed that recently “everything has become difficult and very often you don’t get a reply or don’t get one ... quickly enough”. In contrast, for Gertrude, a positive aspect of the MFSA was its accessibility:

They will take a phone call; they will respond to your phone calls. Not everything has to be in writing. Obviously when you’re looking for certain things then you might have a phone call first, and then they say ‘now follow it with an email’, which definitely you’re always going to do because you need to have an email chain. But they’re very open to having discussions on the phone.

Bassanio perceived that the accessibility of the MFSA was essential for a good or right relationship to exist between the MFSA and the operator:

In my view accessibility is key. We have the advantage that the regulator is very accessible and we can call, we can meet them, within very short notice.”

He explained that a good relationship must be established through a “dialogic approach” (Bottoms and Tankebe, 2012) between the regulator and the operator, the foundation of which is the accessibility of the MFSA:

In my view a good relationship is established by having a two-way communication process while implementing regulation. The bank and the industry have the opportunity to provide feedback on what the regulator is proposing to implement and also in other matters. So if we have an issue ... it is important that we can call, discuss over the phone, and have a frank discussion. In my view that is what constitutes a good relationship.

Helpfulness and guidance

Procedural fairness has been conceptualized in the policing context as incorporating the notion of trustworthy motives, that is, exhibiting care and concern (Jonathan-Zamir, et al., 2015; Mazerolle, et al, 2013). Liebling (2004) also found that a significant relational matter for prisoners was the support offered by prison officers. Participants in the Maltese financial services context echoed trustworthy motives and relational concerns. What mattered to operators was that the MFSA is helpful and provides informal guidance. In some of the examples that follow, the theme of helpfulness coincides with that of responsiveness: that is, the extent to which the MFSA is fast-acting, a theme discussed in the following section.

For example, Brutus remarked that the MFSA, aside from being approachable when he sold his business, was also “very helpful” because he felt that the director of the relevant unit at the MFSA understood that the situation required her immediate attention. Brutus’ experience was reflected in that of Albany and Angelo. Indeed, the former recounted a “very positive experience” in which the bank sought to form a fund management company. This was positive both because the MFSA was responsive (fast) and because the MFSA “gave certain inputs which were very helpful”. For Angelo, his “best experience” with the MFSA took place when the operator was facing regulatory issues with its foreign subsidiary. In his view, the MFSA was “fantastic” because it was “helping” the operator and was responsive by providing prompt feedback. He added that even though the operator was going through a “very very very difficult time”, with its reputation at stake, it nevertheless “found the full support of the regulator, which was actually not only telling [the operator] what to do” but was helping the operator to do so.

Cornwall claimed that it was important that the MFSA act as a “mentor” to those operators who engage in what McBarnet (2001) has referred to as “committed compliance”. Acting as a guide for operators who engage in committed compliance proved crucial for this participant because “the regulator should be a sort of friend where you go and seek advice, rather than imposing more and more and more regulation.” He argued that it was important for the MFSA to help operators engaging in committed compliance, because by doing so further compliance would be promoted, a form of positive reinforcement:

Operators feel they are doing something good, they realise what they are doing is OK, and they feel encouraged to continue doing it.

For Cornwall, it was essential that the regulator does not act like a policeman, but as a friend. If the regulator is seen as a friend by the operator, the operator is more likely to comply to avoid feelings of shame (Braithwaite, 1989):

Once he is a friend you don't want to disappoint him; so what you are doing right you continue doing right and improve it.

In line with Cornwall, Polonius deemed it crucial that the MFSA engage in “proactive” policing by helping the operator to “implement the rules”, rather than “reactive” policing (Reiss, 1971) by waiting for the operator to breach regulations.

Closely related to helping the operator (including by aiding the operator to comply) was the provision of informal guidance. Echoing Cornwall's and Polonius' expectations, Oberon considered it important that the MFSA act as a “lighthouse” by letting operators know what was expected of them (thus connecting with the theme of legal certainty discussed above). Oberon compared the MFSA to a football team playing defence. Rather than playing this reactive role, the regulator should perform a guidance function. Gloucester argued that because of the “tsunami of regulation” (a reference to the “depth” of regulation; Crewe, 2011) the industry looks to the MFSA “for clarification and guidance.” Despite recognising that the MFSA is not a “legal firm”, Puck nevertheless expected a degree of “support, especially in getting the technicalities right”, although he acknowledged that his expectations from the MFSA cannot be “too high in that respect”. Some participants therefore believed that one of the functions of the MFSA is to perform a guidance role. I will return to the tasks of the MFSA when discussing the broad conceptual theme of effectiveness.

Respect

Liebling (2004) has additionally identified respect as a dominant relational concern that mattered to prisoners. In the Maltese financial services context, operators similarly expected a relationship to be founded on “mutual respect”, as the following examples show:

A good relationship is one based on mutual respect. (Albany)

I think mutual respect is critical. (Othello)

A good relationship comes when there is mutual respect and mutual understanding. (Polonius)

I think it needs to be an arm's length objective relationship with mutual respect. (Laertes)

There has to be mutual respect like in anything. (Macbeth)

I think what would constitute a good relationship is if there is respect between the two of us. (Octavius)

Although the participants generally believed that a good relationship is founded on mutual respect, for some participants such respect has to be *earned* and not *demande*d. The principle was said to apply both ways: for the operator to be respected by the regulator and the regulator to be respected by the operator, certain conditions had to be fulfilled. For the regulator to be “respected” (or for the regulator’s authority to be acknowledged as rightful) by the operator, the regulator must be *inter alia* competent, helpful, understanding and not overbearing. While the theme of helpfulness has already been discussed, the BLDs of competence, understanding and regulatory craft (a lack of authoritarianism) will be addressed in the ensuing sections. I wish to focus on what it means for the regulator to treat the operator with respect (rather than what it means for the operator to respect the regulator), because the latter is a question of what renders a regulator legitimate in the eyes of its audience (Liebling et al., 2012b).

Albany explained that the operator has to work for the regulator’s respect by demonstrating consistency in its compliance with the rules, by being honest and by not engaging in deception. He suggested that the reputation that operators build over time through the aforementioned behaviour will earn the regulator’s respect.

For Octavius, being treated with respect means that the MFSA adopts one of the tenets of a fair trial: the “presumption of innocence”. He explained that one of the negative qualities of the MFSA is the “lack of respect, lack of professional respect” by adopting a regulatory or supervisory approach of “trying to find an error”. He claimed that when he corresponded with the MFSA, “they kind of make you feel like a criminal” and provided an example of a meeting he had after the operator had engaged a new compliance officer. The meeting was a “courtesy meeting” aimed at keeping the regulator informed. During the meeting, Octavius felt that he was being “interrogated”. Consequently, he perceived and concluded that the MFSA had reversed the onus of proof:

It’s as if, well, you are in criminology, and you say ‘innocent until proven guilty’. And I think the regulator is switching it around: guilty until proven innocent.

Respect also means that the MFSA must acknowledge that the operator needs to have a business to run. Polonius explained that for him respect means that the regulator understands

(or at least tries to understand) what the operator is trying to do and enables it to pursue its business as long as it does so in accordance with the law. This is conditional on the operator justifying why it undertakes certain actions.

Demetrius' understanding of the concept of respect was similar to that of Polonius. Indeed, he explained that respect means that the regulator has to "recognise that the operator has a business to run and is part of an economic environment and has to be aware that whatever it does can affect that operation". Similarly, for Montague, respect means that the regulator must understand the economic function played by operators. Such an understanding of the operators' role is crucial because these figures are helping Malta to grow economically. Macbeth's understanding of the concept of respect was also consistent with that of Polonius, Demetrius and Montague, associating the concept with the regulator acknowledging the bank exists in an economic envelope and is involved in an industry that has its own rules and methods ... and the regulator has to accept that the bank needs the space to operate within the parameters of the law".

Trust

Trust is one of the primary relational dimensions and is essential for cooperation (Sztompka, 1999). Tyler and Kramer (1996:3) observed that "the importance of trust in social, economic, political, legal, and organizational relations has been increasingly recognised." As Lewick and Benedict Bunker (1996) argued, trust is *the sine qua non* element for successful business, professional, and employment relationships. Resonating with the aforementioned literature, what mattered to Maltese financial services participants was a relationship with the MFSA that is built on trust. Specifically, they wanted to trust the MFSA and also expected the MFSA to trust the operator. The following examples illustrate this BLD:

I think the best relationship that an operator can have with his regulator is where there is a relationship of trust. (Benvolio)

You need a relationship between the regulated entity and the regulator to be a relationship based on trust. (Caesar)

I think there has to be a relationship of trust between the MFSA as a regulator and the entities that are being regulated. (Romeo)

MM: What in your opinion constitutes a good and right relationship between the MFSA and the operator?

R: I think its trust. (Cordelia)

Having established that trust is crucial for a good or right relationship to exist between the MFSA and the operators, it is essential to understand why trust in the regulator by the operator and vice versa is deemed necessary. Resonating with the extant trust literature, the present study finds that one reason why trust is a primary relational concern is because it can be deemed a robust social oil that reduces relational friction and smoothen social interactions (Dasgupta, 1998; Sztompka, 1999). For instance, Albany explained that if the MFSA were trusted by the operator, the operator would be more forthcoming with any specific issues it may have and would be more likely to seek the MFSA's assistance. Similarly, and as explained by Benvolio, if operators distrust the MFSA, cooperation declines:

The impact on the operator is that there is a culture of distrust with the MFSA. The culture of being open and transparent with your regulator, forget it, it doesn't happen.

Polonius contended that if individuals within an operator are trusted by the regulator, a smoother relationship would be engendered:

The insurance directorate knew what they were doing, all right. I mean there was a substantial measure of trust in us because they know us ... because they knew how we operate, and at the end of the day when we sold the company it was quite a smooth transaction from the MFSA point of view. And in order to make it even smoother we, to assure both the client and even the MFSA, decided to remain directors at the new company ... so we gave it that added trust, that added continuity, so even though the owners are new, two people are going to remain there from the people that were previously there when it was moving smoothly.

In contrast, a loss of trust strains social relations. Macbeth explained that a loss of trust (brought about by a lack of impartiality) resulted in him taking a very cautious approach when interacting with the MFSA and in "capitulative compliance" (McBarnet, 2001):

You have to interact in the same way that you interact with a dangerous dog ... at arm's length, trying not to upset him and trying to keep him happy. You accept decisions ... they are going to fine us €10,000 which for the bank reputation-wise is not the best thing that could have happened but at the end of the day it is neither here nor there; but let [the MFSA] chalk one [up ... by fining] the bank".

Limerick and Cunnington (1993:96) remarked that "[t]rust does not come naturally. It has to be carefully structured and managed". In this regard, Sztompka (1999:69-70) argued that "as far as trust is a relationship with others, granting trust is based on the estimate of their trustworthiness". Consistent with these observations, participants do not endow blind trust to

the regulator. Therefore, what makes a regulator trustworthy in the eyes of operators? Participants referred to several factors that would enhance their trust in the regulator: (i) independence/impartiality (11 operators); (ii) honesty/integrity (11 operators); (iii) transparency/openness (9 operators); (iv) competence (6 operators); (v) effectiveness (2 operators); (vi) fairness (4 operators); (vii) reputation (4 operators); (viii) confidentiality (2 operators); (ix) lawfulness (3 operators); (x) consistency (2 operators); (xi) helpfulness (1 operators); and (xii) dialogue/consultation (2 operators). These findings mirrored Sztompka's (1999) reputational basis of trustworthiness and Onora O'Neill's (2002) concept of intelligent trust.

Sztompka (1999:55) argued that "trust is relative". This means that trust must be about something. I trust individual *A* to do *B*. Extending Sztompka's observations, O'Neill (2014) contended that trust is discriminatory in that well-placed trust requires placing trust in some people for specific purposes. The following examples encapsulate these points:

Now by trust, what do you mean? Do I trust them to do what exactly? (Tybalt)

Trust, in a sense, is where you're looking at good faith of the people. I don't have any issue there. Do I have trust that they're going to – in its current state – carry out their role in the way I would want them to do? No, not in its current state. (Juliet)

MM: Do you trust the MFSA?

Kent: Yes, my spontaneous answer is yes. Now obviously I am tempted to ask you a question. In what sense do I trust the MFSA?

MM: Do you trust the MFSA?

Octavius: In what context?"

MM: And do you trust the MFSA?

Brabantio: Do I trust the MFSA? That's a difficult one. 'Trust' is a big word. I mean what should I be trusting them with?

Liebling (2004:240) observed that trust is an "asymmetric concept, in the sense that trust may be built in one way, and slowly, yet destroyed in another, and in an instant." Consistent with this comment, Maltese financial services participants remarked that trust was constructed over time. For instance, Vincentio specifically noted that "trust is something which is generated over time ... not just something which is there". Similarly, Macduff observed that "it is the behaviour of the MFSA on a daily basis that establishes trust." Octavius also explained that trust in the MFSA is something which develops over the years. Indeed,

consistent with the trust literature, he likened trust to a relationship that grows over time: “so a relationship, like in anything, takes to time build.”

Resonating with the above literature, trust can be destroyed in a flash. Regan, similarly to Octavius, but in a different context (MFSA trust in the operator), contended that trust is a relational matter that is built over time and can take years to regain once it is lost:

I mean, this is all a relationship. When they look at you in the eye and trust you, that wouldn't happen because you've just walked into the room for the first time, but it's because you've grown up with them and they know you. If that trust gets eroded just because you raise your voice, or you say what you shouldn't say, then it's very difficult. It unravels very quickly. And then to build this up again, it's going to take quite a lot of time.

Banquo argued that the MFSA's trust in the operators is something that develops over time through interactions with key executives who have displayed qualities of procedural fairness: “respect, collaboration and transparency”. He maintained that naturally, it is the new operators who struggle to build trust, while emphasising that “it takes years to gain and you can lose it very quickly”.

Sztompka (1999) explored the “targets of trust”. In the present research, Maltese financial services participants also identified those they trusted, distinguishing between trust in the MFSA as a whole, trust in certain levels of the MFSA and trust in certain individuals at the MFSA. For example, Brutus trusted certain persons in the specific unit of the MFSA with which he regularly works, but not the higher levels of the MFSA (a reference to the Chairman and the Supervisory Council). Resonating with Brutus, Cornwall emphasised the importance of trust in the higher levels of the MFSA: “they need to have a Chairman ... who, as I said, is trustworthy.” Coriolanus, like Brutus, trusted certain individuals within the MFSA. Other participants, such as Laurence and Demetrius, also placed their trust in the MFSA as a whole while doubting the trustworthiness of certain individuals within it.

5.1.3 Distributive fairness

The concept of distributive fairness was considered by Tyler (1997) and other researchers (see Sunshine and Tyler, 2003) as an instrumental antecedent variable affecting their conceptualization of legitimacy. In contrast, Bottoms and Tankebe (2017) hypothesised that police distributive justice (fairness in the allocation of resources and outcomes) is one of the BLDs that the public makes of police forces and is one of the components of legitimacy. This research supported Bottoms and Tankebe's hypothesis by finding that considerations of

distributive fairness were one of the primary BLDs that operators expected from the regulator. Specifically, operators both large and small demanded that the regulator (which in the case of large banks in the Eurozone is the European Central Bank (ECB)) acts in a proportionately fair manner by not measuring everyone with the same ruler. That is, the operators expected the regulator not to adopt a one-size-fits-all approach to regulation and supervision. Moreover, the operators also expected the regulator to take a balanced approach to regulation and supervision by not being overbearing.

Proportional fairness – the lack of a one-size-fits-all approach

The operators that qualified as large and significant banks expected the ECB to act in a proportionately fair manner by *not* treating (regulating and supervising) large banks in Malta in the same way as they treated other major banks in Europe because, such treatment, among other things, puts a strain on them. This could be inferred from the following quotations:

You cannot have Deutsche Bank and [a large Maltese bank] measured with the same scale because it has 100,000 people and I have 1000 people; and he has more resources than I have; so how can I catch up with him? (Caesar)

The ECB tend to use a ‘one-size-fits-all’ approach so it will be regulating the biggest banks in Europe, Deutsche Bank, for example, or Santander, in the same way that it regulates [a large bank in Malta]. They expect the same principles ... to be adopted by all the banks. Obviously, the economy in which Santander, BNP Paribas and these big [European] banks work is quite different ... a big bank in Malta is overall a small bank, with much less resources. (Lysander)

I think the biggest problem ... is the lack of proportionality. You have [a large Maltese bank] and Deutsche Bank. The returns which Deutsche Bank sends are the same returns [a large Maltese bank] sends. Obviously Deutsche Bank has economies of scale that we don’t, so there is very little proportionality. That is something that the JST [and] the ECB have not accepted to date. (Theseus)

[The principle of proportionality] is catered for theoretically in the regulations. In practice though, you find that there is no proportionality. Whether you are Deutsche Bank or a little bank in Malta the same regulations apply, the same massive reporting requirements. Before, it used to be a much simpler world; there was much more room for discussion and manoeuvre with the MFSA. Now I think it is fair to say that not due to any particular fault of their own, [the MFSA is] struggling to keep up and to understand and to issue and transpose regulations. Local flavour has disappeared because now the ECB rules and [the MFSA has] to apply the ECB laws. (Gloucester)

To Mercutio, employing an EU-driven one-size-fits-all approach robbed the banks of serving the economic interests of a democratically elected Maltese government (Beetham and Lord, 1998):

One-size-fits-all would be bad because ultimately ... banks should also be serving the aspirations of a country that is expressed democratically through the government that the country elects. The economic agenda of Malta should be driven in our Parliament and shouldn't be driven by bureaucrats pulling the strings of the banking sector.

The lawyer respondents, some of whom advise large banks, expected the MFSA not to apply a one-size-fits-all approach. Similarly to Caesar, Lysander, Theseus and Lysander, Tybalt perceived a lack of proportionality in the treatment of large banks in Malta compared with large banks in Europe:

One of the biggest criticisms I always put to the EU in terms of banking regulation, [is that you cannot] have a one-size-fits-all regulation [whereby] you treat [a large bank in Malta] and Deutsche Bank in exactly the same way. They are two different animals. It is like saying that an elephant and an ant have to have the same features in the way they walk, in the way they eat. It just can't be.

Large banks were also aware of the dangers that a one-size-fits-all approach brings to small banks. For instance, Mercutio explained that it is not possible to measure small banks using the same scale as large banks because the former would face significant strain:

The danger ... when we deal with the EU is a one-size-fits-all approach. They have to very careful not to use the same yardsticks with smaller banks as with larger banks because it might just kill the backbone of smaller banks. And I think smaller banks have a role to play and they are important, too.

Mercutio's argument was mirrored by Caesar who observed how a lack of proportionality in regulation and supervision exerts considerable pressure on large banks in Malta, but even greater pressure on smaller banks:

Even if [small banks in Malta] don't fall under the supervision of the ECB, the MFSA which is responsible for [smaller banks] applies the [same] rules ... but if you apply the same rules you are going to destroy them because they don't have the reporting capabilities that [a large bank has].

Small and medium-sized banks also expected the MFSA not to adopt a one-size-fits-all approach to regulation and supervision. For example, Escalus explained that it was important

for the MFSA to be “proportionate and fair” with smaller banks because they cannot cope with the amount of regulation:

I think the effect and impact of regulation must be measured with the scale and complexities of the business you are regulating. If we are a 27-staff bank with a balance sheet of €175 million and an equity of €26 million, you can’t regulate us the way you do the Bank of Valletta.

Escalus continued to explain that a one-size-fits-all approach may lead to smaller banks “withdrawing” (Merton, 1938) from the sector:

Regulation is costly ... I believe that banks will start distancing themselves from business because to get a slice of that business means that you have to spend it on compliance with regulation.

Turning to insurance operators, both large and smaller regulatees in this sector reflected the demands made by large and small banks. For example, Caliban, the CEO of a large insurance company, likened the implementation of the EU Solvency II Regulation to a “nightmare”. This was because he deemed it a regime that ought to have been based on the principles of proportionality, yet what applied to very large insurance companies in Europe applied to large operators in Malta. Caliban’s perceptions were echoed by Polonius, a small insurance broker:

We are small in Malta. I see Malta as a special case, but you have this one-size-fits-all approach. We are in this blessed EU, directives are issued, loads of directives. Regulations that are received by England, Spain or France are received in Malta too. We are bound as much as they are, but they have regiments of regulators, or regulators with regiments of people with experience. We started 10 or 15 years ago, they started 50 years ago, but we have the same obligations and responsibilities that they have ... I am saying that I am small and so maybe the responsibilities should be slightly less in the sense that they should be proportional with my size; I am saying I don’t have enough people ... and I can’t do it.

Other operators from different sectors, namely investments services and funds, trustees and CSPs (all small and medium-sized operators) also expected the MFSA not to employ a one-fits-all-approach to regulation and supervision. For example, Macduff, a compliance officer working in investment services, expected some form of proportionality in the way the MFSA supervises operators. He acknowledged that there naturally ought to be rules that apply to *all* operators regardless of their size, but drew a distinction between “the law in the books” and the “law in practice” (Liebling, 2011:488) by stressing that “there has to some

proportionality” that should be reflected not only in the legislation but also in the way the regulator supervises operators:

Yes, you need certain functionaries, but is there need for an internal auditor in a firm of four people or five people or six or ten? No. They allow for a derogation ... but it is quite hard to get a derogation. Do you need a risk manager, a dedicated full-time risk manager? Do you need a full-time chief information security officer? Sometimes there has to be some flexibility. What they don’t understand is that everything costs money.

Resonating with Macduff’s reasoning was Lucio, another compliance officer working in the investment services and funds, trustee and CSP sectors. He explained that while investment services and funds are subject to different regimes with different requirements and may have certain exemptions, this was not the case for trustees and CSPs, resulting in unfairness:

“One of the things I don’t particularly like is that, particularly for CSPs [and] trustees, there is one regulatory framework for everyone, irrespective of whether you employ 50 people or 5. One of the biggest challenges for CSPs and smaller trustees ... is the compliance costs being so big, so challenging, that it is very, very difficult to keep on operating because there is one regime [that applies to all operators].”

Although Lucio believed that there were certain exemptions in investment services that could lend some form of proportionality, his opinion was not shared by Kent. This respondent perceived that although there was an attempt to recognise proportionality in the AIFMD Directive this was not the case in practice. In effect, Kent was drawing a distinction between Liebling’s (2011:488) “the law in the books” and the “law in practice”.

Rather than adopting a one-size-fits-all approach to regulation and to supervision, some participants expected the MFSA to use its discretion when implementing EU Directives. For instance, Othello noted that the Directives afforded the MFSA a degree of latitude when transposing the Directives into Maltese law, but perceived that they were simply “being cut and pasted and applied wholesale to the local market without thought.” Caesar remarked that even though the MFSA’s hands were tied because of the EU, he was of the view that the MFSA needed to utilize its discretion as much as possible. Similarly, Brutus maintained that EU Directives pertaining to insurance were drafted in a “very strict” manner. He argued that although the “MFSA probably has some form of [discretion] ... and could be a bit lax and not apply the maximum threshold”, it generally applies “the maximum thresholds.” Malvolio attributed this lack of exercise of discretion by the MFSA as a strategy on its part to try to appease EU supranational regulators:

In Malta we have the habit of taking any EU Directive to its fullest extreme, so even if the EU Directive gives you latitude, Malta likes to be told we are good boys and we are very compliant, so we go the whole hog.

Proportional fairness – A balanced approach to supervision

Operators did not want a “nanny regulator”, that is, one that acts like an “enforcer” (Muir, 1979:294) or adopts an overbearing or authoritarian parenting style (Baumrind, 1991a) by rigidly implementing the law. To use Crewe’s (2011:510) language, operators did not want to be supervised in a manner that displayed “weight” or “tightness”. A number of reasons were proffered by respondents to justify their views. For instance, Macbeth expected the MFSA to act like “aircraft travelling at a 1000ft”, supervising the operator at a distance and intervening only if it breached the rules. He stressed that when undertaking its supervisory role, the MFSA must not be “oppressive”, as otherwise the operator would be “strangled”:

The bank must have the space to do what it has to do so long as it is moving by the rules. The police are not chasing you all the time although they are there to police what happens. But we don’t have policemen behind the door; they expect us to behave like normal human beings, within the law like anybody else. The regulator, like the police, [should] get involved when the exception happens.

Reflecting Macbeth’s expectation, Kent argued that the MFSA should “do away with the bad service providers” and in doing so ought to give “the good guys” a “breath of fresh air” to operate. Similarly, Puck expected the MFSA to “let us work” while performing “its supervisory role” in a minimalist way. For Caliban, it was important for the MFSA not to be excessively “intrusive” as this “instils a fear in them”, resulting in corporate decisions being delayed at the board level. Polonius deemed it critical that the MFSA not solely rely on a coercive approach (Muir, 1979) or on over-lawfulness because this will result in non-compliance (May and Winter, 1999; McBarnet, 2001; but see May and Wood, 2003 for a different perspective):

The worst situation is when they throw the book at you and tell you ‘That is how you must do it; that’s it: shut your mouth.’ Even if it is the most just command, you will have to rebel.

The expectation that the regulator should not act in an overbearing manner also extended to the regulator not interfering in the business of the operator as otherwise the former would be assuming conflicting roles. Othello described a situation in which the regulatory side of the

ECB was “overcorrecting” and acting in an overbearing manner by intervening in the way banks are run, specifically by sitting in on board meetings. He angrily stressed that “that is not the role of the regulator”; rather, the function of the regulator was to “set the regulations” and to ensure that those were “fairly and properly applied”. According to Othello, if the regulator conflates these roles “it will make for a very difficult relationship”. He acknowledged the “carnage caused by the financial crisis” and understood why the regulatory response stimulated the pendulum to shift from an attitude towards deregulation to an attitude characterised by “overreaction.” In contrast, Othello insisted that having a “draconian regime in place” would not work. A similar situation was described by Regan in relation to the MFSA, explaining that the MFSA has taken on the role of acting as “the guarantor for the general public” to ensure that the consumer receives the best deal possible. She attributed this overzealous regulatory approach to undue deference to the EU as well as to criticisms levelled at the MFSA over regulatory failures:

What has happened over these last few years, is sometimes they throw the book at you and say, ‘But you don’t know what pressure we’re having from the EU,’ which is true. I mean, this is a [post-crisis] phenomenon they’ve had to deal with, and it’s not nice to have somebody coming and looking at what you’ve done and tick you off if you haven’t done things the right way. But I find that that is too much of a blanket approach to everything, and then sometimes it has instilled in them a fear, where they refuse to consider anything else.

They are scared that something will come back to haunt them. So their reaction is to overprotect, to practically tell [operators] every step of the way what they should be doing, sometimes misguidedly.

Rather than adopting an overbearing and authoritarian style to regulation and supervision, participants expected the regulator to adopt a balanced approach akin to Aristotle’s “golden mean”. The following quotations illustrated the expectation of achieving an equilibrium between too much and too little supervision:

You need, to a certain extent, compliance. But now compliance is taken to an extreme. Everything needs to be in balance when it is neither one extreme nor another. I think Aristotle said *in medio stat virtus*. (Cornwall)

A middle route must be found to reconcile, to find a balance, between the two ends of the spectrum. Either be with the operator all the time and you will be overbearing and strangle the operator (and therefore the arrangement doesn’t work because you are always breathing down the operator’s neck and the operator gets annoyed) or you leave the operator alone and hope nothing happens, that is the other extreme. (Polonius)

There needs to be a balance between regulation [and] being practical and ... business-oriented. You aren't going to be business-minded because after all, you're an authority ... because supervision can be very burdensome. It can in itself defeat the whole scope, because if you going to be ... too burdensome, the operations become too expensive ... the fees of various banks and financial institutions ... will go up making their products not feasible, and ... credit institutions will start either closing or limiting their business ... or clients would not be interested in the services that you provide because they are too expensive. Of course, the public needs to be protected, so there needs to be the right regulation, but it needs to be done only as much as is required. (Cordelia)

Othello attributed the regulator's "overbearing" and "authoritarian" supervisory stance to a lack of competence and experience (BLDs related to the broad theme of effectiveness which will be addressed in the following section). Several references were thus made to the MFSA's functions, especially its role as a supervisor. The following section will address the BLD of performance of functions.

5.1.4 Effectiveness

The themes to be considered in this section (performance of functions, competence, and responsiveness) have conventionally been regarded as instrumental notions (Sunshine and Tyler, 2003). In this research, however, Maltese financial services participants viewed these themes as normative demands or expectations.

Performance of functions

Bottoms and Tankebe (2012, 2017) hypothesised that the effectiveness of the police in performing their functions is one of the BLDs that the general public makes of police forces. This research supports the Bottoms-Tankebe hypothesis by finding that participants expected the MFSA to perform its functions effectively. The MFSA has numerous functions, which can be categorised into three broad groups: (i) authorisation or licensing; (ii) supervision; and (iii) enforcement. Some participants did not expressly state that they expected the MFSA to perform those functions effectively. However, drawing on MacIntyre's (2013:69) "functional concepts", where participants considered one of the regulator's roles or functions to be that of "supervising operators", it would follow that a regulator who did not adequately supervise operators should be regarded as not performing its function effectively.

Participants did expect the MFSA to perform its role as a gatekeeper effectively by ensuring that the right entities and individuals were licensed to carry out financial services in Malta:

I think a regulator, as the name implies, needs to regulate; so it needs to have a very good feel of what is happening out there, because it is one of the most important sieves in our infrastructure. It is the gatekeeper *par excellence*. (Benvolio)

The first [function] is to authorise any new applications. (Donalbain)

They have, first, an authorisation function. It's scrutiny of any regulated business to see whether or not that business is compliant with regulatory requirements and is also fit and proper for the purpose. (Coriolanus)

As Coriolanus and other participants explained: "then there's a supervisory side, which is the side where basically they're looking into the ongoing compliance of any licensed entity". Operators expected the MFSA to perform its supervisory role and ensure that all operators complied with the relevant regulations:

I think the MFSA should ensure that there are high standards of behaviour from all licence holders. (Romeo)

They are mostly involved, as their name indicates, in the regulatory aspect, in the substantive aspect. They need to ensure, if we are talking about the business of insurance, the same for banking and the same for investments, that operators are operating correctly. (Polonius)

Participants explained that to ensure that all operators comply, the MFSA ought to conduct regular inspections or compliance visits:

I feel the MFSA ... needs to be reorganised and focus on ... on-site inspections; I think they need more of those. (Regan)

In terms of oversight for thematic reviews, the MFSA does carry out these reviews, but ideally they would be carried out more frequently. (Bassanio)

Respondents also expected the MFSA to exercise its powers more proactively:

[The MFSA's powers] should be applied proactively and not wait for reports to come. [The MFSA should] monitor more by starting off inspections. (Cordelia)

They are too passive, they are too passive. It needs to reach a level where they're forced to do something. (Juliet)

Moreover, they perceived that wherever wrongdoing is discovered, it must be swiftly acted upon, shifting the certainty and celerity of punishment from instrumental to normative considerations:

If people have defaulted, action has to be taken promptly ... I mean ... if there is a problem today it has to be dealt with today. It is useless putting the problems under the carpet; they will remain there. I think ... there is a public interest involved. (Romeo)

If you have an issue, that issue needs to be looked at – you look at it now, and you have all the regulatory powers in the world to do it. I mean, the law gives you the rights to go in and take control. [The MFSA] has an indemnity in the law that unless there is bad faith [it's] not liable, so there's nothing to be scared of there. But it's very important for market operators to know that there is a proper regulator. (Juliet)

Participants not only expected the MFSA to be responsive in the sense of fast enforcement, but they also wanted the MFSA to act quickly and efficiently when exercising its other functions, in particular in licensing and conducting investigations as well as when responding to operators' concerns and needs. While responsiveness can be regarded as an instrumental concern, the normative aspect of responsiveness was highlighted when participants explained that the functions of the MFSA (licensing, supervision and enforcement) must be exercised quickly and efficiently to protect the interests of consumers, to protect the reputation of Malta, to safeguard the country's economic interests and stability and to protect the operator. Variations existed in the participants' ranking of these objectives. For example, whereas Regan considered the protection of consumers more important than the reputation of Malta, Rosaline ranked these two interests equally. Other participants such as Demetrius argued that "the lowest common denominator" of the above goals was the protection of consumers, while for Prospero the primary and only objective of the MFSA was to protect the general public:

The regulator is there not to give services primarily to the service provider but to protect the best interests of the general public. That is the regulator's function.

Competence

To perform its functions effectively in the interests of *inter alios* consumers, participants expected the MFSA to be staffed with competent individuals. Competence was multidimensional and consisted of the following five characteristics:

- i. Experienced staff – Participants expected the MFSA to be staffed by members who had industry experience to discharge their functions. For instance, Polonius was of the view that MFSA staff lacked the necessary experience in the financial services sector to effectively perform their role:

The problem in the regulator is that there are people who are trying to regulate persons who are in the industry when these people who are regulating don't have the exposure. They aren't doing it on purpose, they don't have the experience, they haven't gotten their hands dirty enough.

It was insufficient for the regulator to be staffed with *experienced* personnel; it should also be staffed with *specialized* personnel. This requirement arose due to the complexity of regulation, a point clearly captured by Brutus:

The Maltese regulator, unfortunately, was faced with having to implement these directives and regulations without obviously having the necessary experience; which leads me to my second point about the need to have the necessary staff to handle [complex matters].

- ii. Staff with specialized or expert knowledge – Given that the financial services sector in Malta has proliferated over the last 20 years and that an inherently complex regulatory regime has become increasingly Kafkaesque, participants expected MFSA staff to be experts or specialists in their respective fields. The following statements capture this theme:

We have an issue here in Malta at the moment – that a knowledge gap is being created ... we have come from zero to 80 in the last 20 years; the next leap requires a higher level of sophistication and a different set of skills. [Today] the level of sophistication is not there. (Tybalt)

There is a big problem in terms of numbers. The financial services market in Malta has grown exponentially, in terms of new market players, in terms of resources, in terms of capital, in terms of employment. ... During these 15 to 20 years I've seen exponential growth. The MFSA has grown, but I'd say not to proportion, so the MFSA has continually been trying to catch up with the market. Unfortunately, for the MFSA the legislation is getting very, very complicated. (Donalbain)

- iii. Spirit and the heart of the laws – Participants expected the MFSA, in the conduct of its licensing and supervisory functions, not to adopt a tick-the-box approach by focusing on the insignificant issues and the letter of the law but instead to take a substance-over-form approach. This BLD was clear from the following quotations:

A criticism on my part is that the MFSA has built up a lot of tick-the-box items which need to be covered in order to issue a licence and sometimes that might not be enough in order to make a proper analysis as to whether a potential trustee deserves to get a licence. (Vincentio)

There needs to be a complete overhaul in the way they supervise the financial sector. There has to be a shift from this tick-the-box approach completely. (Macduff)

- iv. Empathetic understanding – It was not enough that the MFSA be staffed by competent individuals with the necessary experience and regulatory expertise to undertake their roles in a manner that displays adherence to the heart of the law; it was also important that the MFSA be able to perform its functions in a way that reflects empathetic understanding (Barrett-Lennard, 2015). This BLD was deemed vital at the micro level as well as the macro level. At the micro-level, the interviewees expected the MFSA to *understand the business of the operator and its business needs*. For example, Tybalt explained that to supervise operators effectively the MFSA needed to understand the business of the operator and its business needs. Similarly, when conducting compliance visits, Benvolio explained that the MFSA should “focus much more on the business” and “give much more importance to the business plan of the operator”. At the macro level, what mattered to operators was that the regulator *understood the industry*. For example, for Laurence a lack of understanding of the industry resulted in decisions being taken on the basis of the letter of the law:

I think that the main difficulty is that they do not understand the industry enough, and this is leading to ... decisions that are taken on the basis of formalistic concepts rather than knowledge of how things really work.

Similarly, Escalus explained that to adequately supervise operators the regulator needs to understand the specific industry in which the operator is involved:

I expect that they would understand more, that they would truly understand the financial markets that they are regulating. If they are regulating [our bank] which is a bank specialised in commodity trade finance, they should have somebody as a point of reference there.

Moreover, and also at the macro level, participants expected the regulator to understand the economy of Malta:

Now it all depends on ... the regulator understanding initially the business, but it also has to understand ... what type of business [we as a country] want to accept, what type of jurisdictions we are going to do business with. (Gratiano)

I believe they need to understand the general picture by looking at the economy in which the bank is operating. (Lysander)

- v. Trained staff to carry out their functions – For the MFSA team to be able to carry out its functions, its members need to have received the appropriate training. For instance, Benvolio explained that if MFSA staff are not trained to exercise their discretionary authority to differentiate between compliant operators and non-compliant ones, a one-size-fits-all approach to supervision can result:

“They are finding it extremely hard to distinguish between what is right and what is wrong and to apply their values to the way in which they take their decisions ... everyone is treated in the same way, but not everyone is the same”.

Resources

Aside from the substantive aspect of *competent staff*, participants expected the MFSA to be *sufficiently* staffed and resourced. Manpower was regarded as essential for the Authority to perform its functions. For instance, Romeo considered a lack of effective supervision “to be a problem associated with human resources”. Similarly, Macduff perceived that the MFSA cannot effectively regulate certain businesses because it lacks the manpower and expertise. Resonating with Macduff’s view, Juliet deemed effective supervision vital to preventing wrongdoing that can result in huge victim losses. To her, the lack of effective supervision was due to staffing issues, in particular, a lack of specialised and experienced MFSA inspectors. On the relational side, Caliban associated a lack of professionalism displayed by the MFSA (by cancelling a meeting at short notice) with insufficient human resources, while to Gertrude an MFSA priority should be to “staff up”.

Leadership

Previous studies have demonstrated that for organisations to be effective, their leadership must provide a clear sense of direction or strategic vision (Bryman, 2007). Consistent with this literature, in order for the MFSA to be effective in performing its functions, the participants expected the MFSA to have a chairman and top management that lead and give it the necessary direction:

I don’t think there’s leadership. The MFSA, along the years, has lost its leadership. (Benvolio)

It needs someone who gives it direction and proper direction and gives it lots of credibility. (Brutus)

I don't think any long-term decisions are currently being taken and it is in a state of lull. There is severe fatigue, no direction from the top. I think until there is new leadership, this is going to be the situation. (Macduff)

Participants also expected the chairman and other top management to be changed from time to time, while retaining security of tenure as a mechanism to ensure independence and impartiality. A change in leadership mattered for one main reason: as Brutus, Mercutio, Donalbain, Puck and Oberon explained, a change in leadership is necessary to prevent the cultivation of "tyranny" or a state akin to a "fiefdom". By substituting the chairman and other top management from time to time, the regulator would get a breath of fresh air.

In addition, what mattered to participants was that the leadership of the MFSA (the chairman and top management) leads by example. For Macduff, Donalbain and Prospero this meant that the chairman should exhibit the characteristics of impartiality and lawfulness described above.

6

Legitimacy of Financial Regulators: Scale Development and Validation

6.0 Preliminary

This Chapter builds on the deductive stage by using the results obtained from the interviews to construct and distribute a survey to licensed operators. In this Chapter, which focuses on the inductive stage, the survey data were analysed using exploratory and confirmatory factor analyses to develop a three-dimensional model of MFSA legitimacy. This model was subjected to reliability and validity tests in preparation for exploring its relationship with order.

6.1 PCA

I conducted a PCA with varimax rotation in order to identify an optimal factor structure (Field, Miles and Field 2014). The Kaiser-Meyer-Olkin measure of sampling adequacy was 0.893, confirming the appropriateness of the data for a PCA (see Hutcheson and Sofroniou, 1999). The analysis revealed a five-factor solution (see Table 4) that explained 59.34 percent of the variance in the items. MFSA licensees sampled in Malta perceived legitimacy to be composed of five dimensions, comprising 34 items. Fifty-one items were omitted from the analysis because they cross-loaded onto other items or had a factor loading below 0.45. I employed Comrey and Lee's (1992) cut-off points: 0.32 = poor, 0.45 = *fair*, 0.55 = good, 0.63 = very good and 0.71 = excellent. According to this rule of thumb, a threshold of 0.45 is considered fair and therefore factors which were below 0.45 were omitted.

Factor 1 comprised items that measure three sub-dimensions: (i) lawfulness (Q19, Q16, Q30, Q9) (Bottoms and Tankebe, 2012);³⁸ (ii) trust (Q25, Q12) (Tyler and Huo, 2002); and (iii) procedural fairness in the quality of decision-making (Q23, Q56, Q28) and quality of treatment (Q10, Q37, Q65) (Sunshine and Tyler, 2003).³⁹ It should be observed that one item under lawfulness ("when the MFSA deals with operators it always acts according to law")

³⁸ One item (Q9) was adapted from Tankebe (2013).

³⁹ One item (Q23) was adapted from Tankebe (2013).

was similar to an item included by Sunshine and Tyler (2003) and by Tankebe (2009b, 2010) when measuring procedural fairness and by Tankebe (2008, 2009a) when measuring trust as a sub-dimension of legitimacy.⁴⁰ I decided to retain this item under this factor because conceptually it fits better under the theoretical construct of lawfulness. The item “MFSA decisions are usually fair” was similar to an item included by Tankebe (2013) in his distributive justice scale, but it could also be considered as a general question for measuring procedural fairness (Sunshine and Tyler, 2003). Factor 1 combined the sub-dimensions of lawfulness, institutional trust and procedural fairness and therefore reflected the dimension of the rule of law (Bingham, 2010). Most of the items in Factor 2 reflected the dimension of effectiveness or performance of functions (see Sunshine and Tyler, 2003; Tankebe, 2013). One item that loaded onto Factor 2 (“the MFSA is too close to some operators”) can measure the concept of “Good relationships” established by Liebling (2011) or can be an indicator of the concept of impartiality, an aspect of the quality of decision-making (Sunshine and Tyler, 2003). Another item that loaded onto Factor 2 (“the MFSA’s decision-process is open and transparent”) could represent transparency, another aspect of the quality of decision-making (Tyler, 2003). I decided to retain these items under Factor 2 because they could also be indicators of effectiveness. Acting impartially and transparently could influence effectiveness. The items in Factor 3 measured the dimension of competence. It should be noted that one of the items under competence (“MFSA staff know how to carry out their roles well”) was similar to an item included by Tankebe (2008, 2009a, 2009b) when measuring effectiveness (“overall the police are doing a good job in my neighbourhood”). A conceptual distinction exists between competence and effectiveness: staff may know how to carry out their roles well, but still prove ineffective. The distinction may be hard to empirically disentangle, because for a regulator to be effective, it must be staffed by competent (experienced, knowledgeable and skilful) individuals. However, it is also possible for regulatory effectiveness to be affected by factors other than competence. For instance, political interference could affect the regulator’s effectiveness without necessarily influencing the competence of staff. It could be argued, however, that the ability of staff to resist political interference is an aspect of competence. Reviewing the items that loaded onto Factor 4, it is arguable that these items measured distributive justice as they mostly concerned the fairness of outcomes that operators receive from the regulator (Tankebe, 2013). Reviewing the items which loaded onto Factor 5, it was clear that these statements measured

⁴⁰ Tankebe (2010b) included a similar item under the sub-scale of trustworthiness when measuring confidence in the police.

the concept of responsiveness. It should be noted that one item under responsiveness (“The MFSA acts in a timely manner”) was similar to that included by Sunshine and Tyler (2003) and by Tankebe (2008, 2009a, 2009b) when measuring effectiveness.

To summarise, the five hypothesized scales of MFSA audience legitimacy were the rule of law (comprising the sub-dimensions of lawfulness, trust, and procedural fairness), effectiveness, competence, distributive fairness and responsiveness. Although EFA techniques are useful in identifying the survey’s theoretical factor structure, it is necessary to employ a CFA analysis to provide further evidence of an instrument’s construct validity (Besnoy et al., 2016). Before subjecting these dimensions to a CFA, I conducted a reliability analysis on each dimension (see Table 5). In this study, reliability was assessed by examining the correlation coefficient known as Cronbach’s alpha. Consistent with Liebling’s (2004) research, I employed Cohen and Holliday’s (1982) rule of thumb for interpreting this correlation: 0.19 and below = very low; 0.20 to 0.39 = low; 0.40 to 0.69 = acceptable; 0.70 to 0.89 = high; and 0.90 to 1 = very high. From Table 4, it is clear that while the dimensions of the rule of law, effectiveness, competence and distributive fairness demonstrated high levels of internal consistency, the dimension of responsiveness displayed only an acceptable level of reliability.

Table 4. Principal components analysis of items in questionnaire

Item	Factor 1	Factor 2	Factor 3	Factor 4	Factor 5
Rule of Law					
In dealing with operators, the MFSA exercises its powers in good faith (Q19)	0.758				
I find the attitude of MFSA staff to be hostile (Q10) *	0.743				
The MFSA and its staff act as if they are above the law (Q16)*	0.721				
The MFSA sometimes abuses its powers (Q30) *	0.708				
MFSA decisions are usually fair (Q23)	0.692				
I trust the MFSA (Q25)	0.691				
The MFSA treats operators fairly (Q37)	0.680				
I find it hard to trust MFSA staff (Q12) *	0.672				

The MFSA does not apply the law fairly (Q56)*	0.626	
When the MFSA deals with operators it always acts according to law (Q9)	0.609	
Things only go your way if you know the right people at the MFSA (Q28) *	0.536	
Staff at the MFSA are willing to support the operator (Q65)	0.535	
Effectiveness		
The MFSA is doing a good job investigating regulatory violations (Q61)	0.731	
The MFSA does not respond quickly enough to breaches committed by operators (Q44) *	0.717	
The MFSA ensures high standards of conduct from operators (Q69)	0.655	
The MFSA is doing a good job supervising operators (Q63)	0.654	
The MFSA is doing a good job protecting Malta's reputation as a financial services centre (Q73)	0.636	
The MFSA is too close to some operators (Q64)*	0.600	
The MFSA's decision-making process is open and transparent (Q11)	0.521	
The MFSA ensures that the right entities/people are licensed (Q57)	0.520	
Competence		
Staff at the MFSA appear properly trained for their roles (Q85)	0.793	
MFSA staff have the technical (specialized)	0.772	

knowledge to discharge their functions (Q39)						
Staff at the MFSA have the necessary regulatory experience to discharge their functions (Q1)			0.713			
MFSA staff know how to carry out their roles well (Q29)				0.674		
Staff at the MFSA are not well versed in the relevant regulations (Q70) *			0.602			
Staff at the MFSA understand how the law applies in practice (Q17)			0.573			
The regulator understands the economic landscape in which the operator operates (Q43)			0.452			
Distributive Fairness						
The regulator adopts a one-size-fits-all approach to regulation (Q34) *				0.851		
The regulator adopts a one-size-fits-all approach to supervision (Q52) *				0.784		
The MFSA is too rigid in the way it applies the law (Q40) *				0.689		
The MFSA adopts a tick-the-box approach when carrying out its functions (Q48) *				0.669		
Responsiveness						
The MFSA does not seem to have enough staff to attend to operators (Q14) *					0.775	
The licensing process is too slow (Q22) *					0.774	
The MFSA acts in a timely manner (Q13)					0.632	
Variance	19.397	12.857	11.834	8.754	6.494	

Explained

NOTE: *N* = 226 Only factor loadings >.45 are displayed

* Items marked with an Asterix were reverse coded

Table 5. Reliability analysis of the five dimensions

Dimension/Factor	Cronbach's Alpha (α)
Rule of Law	.924
Effectiveness	.852
Competence	.876
Distributive Fairness	.825
Responsiveness	.694

6.2 Confirmatory Factor Analysis

Using AMOS SPSS 25 software, a CFA was conducted on the five-factor model to test the hypothesis that the five scales of MFSA audience legitimacy are the rule of law, effectiveness, competence, distributive fairness, and responsiveness. I based the evaluation of the model on four goodness-of-fit criteria: the minimum discrepancy, divided by its degrees of freedom (CMIN/DF); Comparative Fit Index (CFI); the root square error of approximation (RMSEA); and standardized root-mean-square residual (SRMR). According to Arbuckle (1997), the CMIN/DF is the most appropriate goodness-of-fit index. Although a lack of agreement exists among academics as to what constitutes an appropriate ratio (Hooper, Coughlan and Mullen, 2008), with various cut-offs ranging from two to five being suggested (Loo and Thorpe, 2000), the ratio ought to range between one and three but should be closer to one for a good-fitting model (Van Berkel and Schmidt, 2000). As Schermelleh-Engel, Moosbrugger and Müller (2003) suggest, the CMIN/DF ratio should be as small as possible for a good fitting model. Bentler's CFI, in contrast to the chi-square likelihood ratio, adjusts for sample size (Hooper et al., 2008). Its values range from 0.00 to 1.00, and while a value close to 0.90 was conventionally an indicator of a good-fitting model (Bentler, 1992), Hu and Bentler (1999:24) suggest a more stringent cut-off point to a score closer to 0.95. Despite this more stringent cut-off point, CFI values between 0.90 and 0.95 indicate an acceptable or reasonable fit while values below .90 demonstrate a poor fit (Bentler, 1990; Tabachnick and Fidell, 2007). The RMSEA reveals how well the model fits the population covariance matrix (Byrne, 1998). For Brown and Cudeck (1993), RMSEA values below 0.05 indicate a good or close fit, values between 0.05 and 0.08 an acceptable fit, values between 0.08 and 0.10 a mediocre fit and values above 0.10 are unacceptable. Hu and Bentler (1999) are more

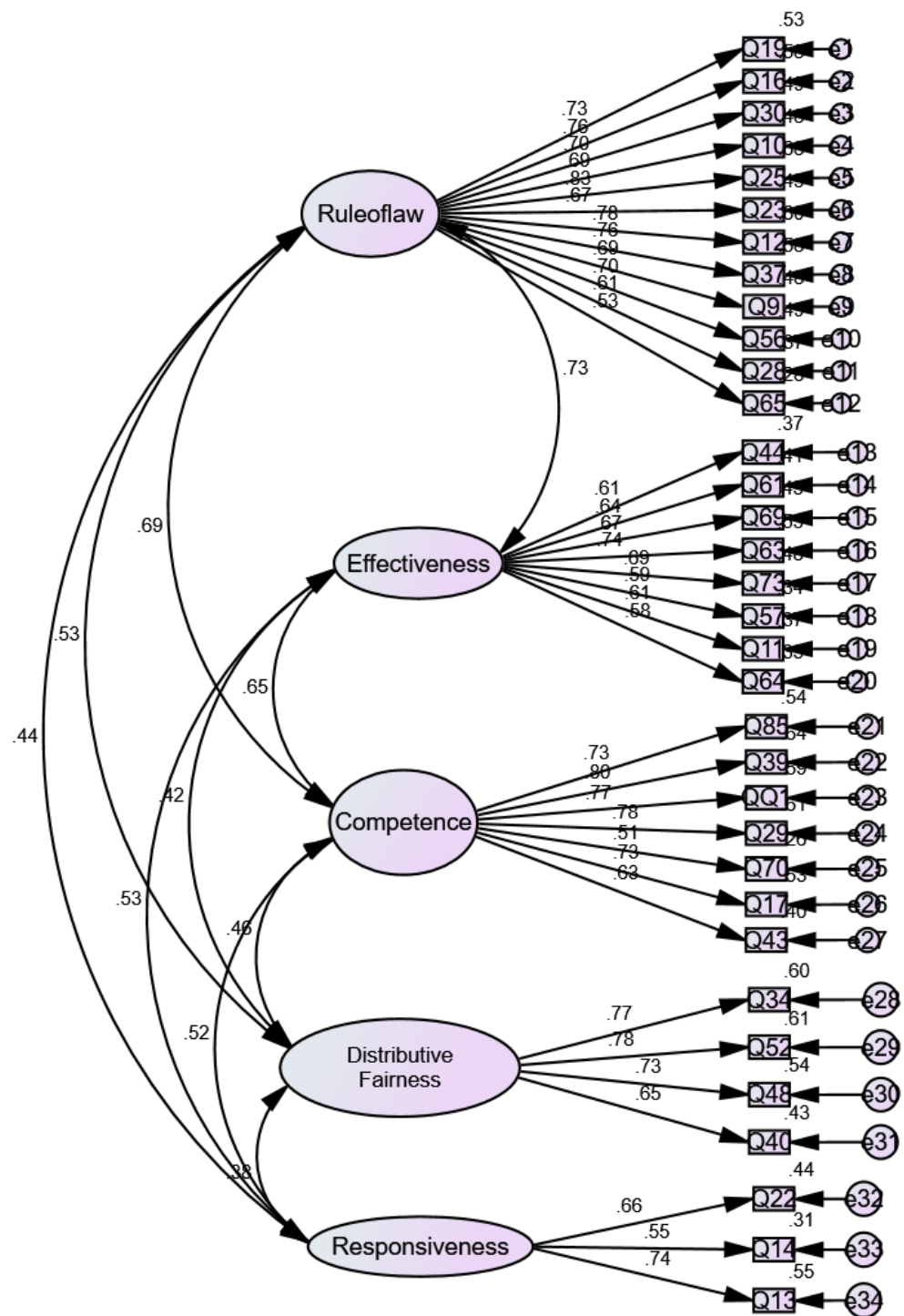
restrictive and suggest a cut-off point close to 0.06 for a good-fitting model. MacCullum and Austin (1999) advise researchers to employ the RMSEA because of two advantages: first, unlike the Chi-Square it is sensitive to model misspecification; second, it provides a confidence interval that estimates the precision of the model fit unavailable in other models. The SRMR is the square root of the difference between the residual of the sample covariance matrix and the hypothesized covariance model (Hooper et al., 2008). Similar to the CFI, its values range from 0.00 to 1.00 (Hooper et al., 2008). Researchers have suggested different cut-off points for the SRMR (see, for instance, Bagozzi, 2010; Bagozzi and Yi, 1988; Bagozzi and Yi, 2012; Byrne 1998; Diamantopoulos and Siguaw 2000; Hu and Bentler, 1999), however a value of below 0.08 suggests a good fit. In this paper I rely on Hu and Bentler's (1999; see also Hooper et al., 2008) combinational rules for the CFI, SRMR and RMSEA: (i) a cut-off value close to 0.95 for CFI and a cut-off value of not more than 0.09 for the SRMR; and (ii) a cut-off value close to 0.06 or lower for the RSMEA and a cut-off of value of not more than 0.09 for the SRMR. Given that SPSS AMOS 25 software only computes the SRMR with no missing data and because the data set contained missing data, cases with missing data were omitted in order to compute the SRMR.

The CFA model is presented in Figure 1 and the results are contained in Table 6. The CMIN/DF ratios of 1.718 and 1.584 suggested an acceptable-fitting model. However, employing the first combinational rule showed mixed results. While the CFI value of 0.898 suggested a poor fit, the CFI value of 0.900 suggests a *borderline* fit with the SRMR value of 0.0698 suggesting an acceptable fit. However, using the second combinational rule indicated an acceptable fit to the data. Specifically, the SRMR of 0.0698 and an RSMEA values of 0.056 and 0.057 indicated that the hypothesized model was an acceptable fit of the data. In sum, using the second combinational rules presented an acceptable fit to the data in contrast to using the first combinational rules.

Table 6 – Five-factor goodness-of-fit statistics

	BLD 5 Factor Model
CMIN/DF – missing data (226)	1.718
CMIN/DF – no missing data (181)	1.584
CFI – missing data (226)	0.898
CFI – no missing data (181)	0.900
RMSEA – missing data (226)	0.056
RMSEA – no missing data (181)	0.057
SRMR (181)	0.0698

Figure 1. BLD Five-Factor Model



NOTES: N = 226

After evaluating the fit of the CFA model, I assessed the reliability and the convergent and discriminant validity of each dimension. Reliability reflects the degree to which the measure is consistently measuring that construct. Convergent validity refers to the internal consistency of a construct and measures the strength of the association between the items that are predicted to form a single latent construct (Brown, 2015). Discriminant validity concerns the relationship between different latent constructs (Brown, 2015). Reliability was assessed by calculating the Composite Reliability (CR); convergent validity was assessed by examining the factor loadings and the Average Variance Extracted (AVE); and discriminant validity was assessed by computing the Maximum Shared Variance (MSV), the Average Shared Variance (ASV), the square root of the AVE and by examining the inter-construct correlations. Hair et al. (2010, 2011, 2014; see also Fornell and Larker, 1981) suggest employing the following thresholds: (i) a value of above 0.7 to gauge CR; (ii) a value above 0.5 to measure AVE; (iii) the MSV must be less than the AVE; (iv) the square root of the AVE must be greater than the inter-construct correlations; and (v) ASV must be less than the AVE. In addition, between-construct correlations ought to be small enough that it can be implied that the constructs are distinct and not part of some larger construct (Gau and Pratt, 2008; Kline 2005 cited in Gau, 2011). These results are presented in Table 7.

Table 7. Five-factor model reliability, convergent and discriminant validity statistics

	CR	AVE	MSV	ASV	Rule of law	Effectiveness	Competence	Distributive Fairness	Responsiveness
Rule of law	0.95	0.5	0.53	0.38	0.71				
Effectiveness	0.88	0.41	0.53	0.35	<i>0.73</i>	0.64			
Competence	0.91	0.51	0.34	0.48	<i>0.69</i>	<i>0.65</i>	0.71		
Distributive Fairness	0.84	0.54	0.29	0.28	<i>0.54*</i>	<i>0.42</i>	<i>0.46</i>	0.73	
Responsiveness	0.73	0.43	0.28	0.22	<i>0.44</i>	<i>0.53</i>	<i>0.52</i>	<i>0.38</i>	0.66

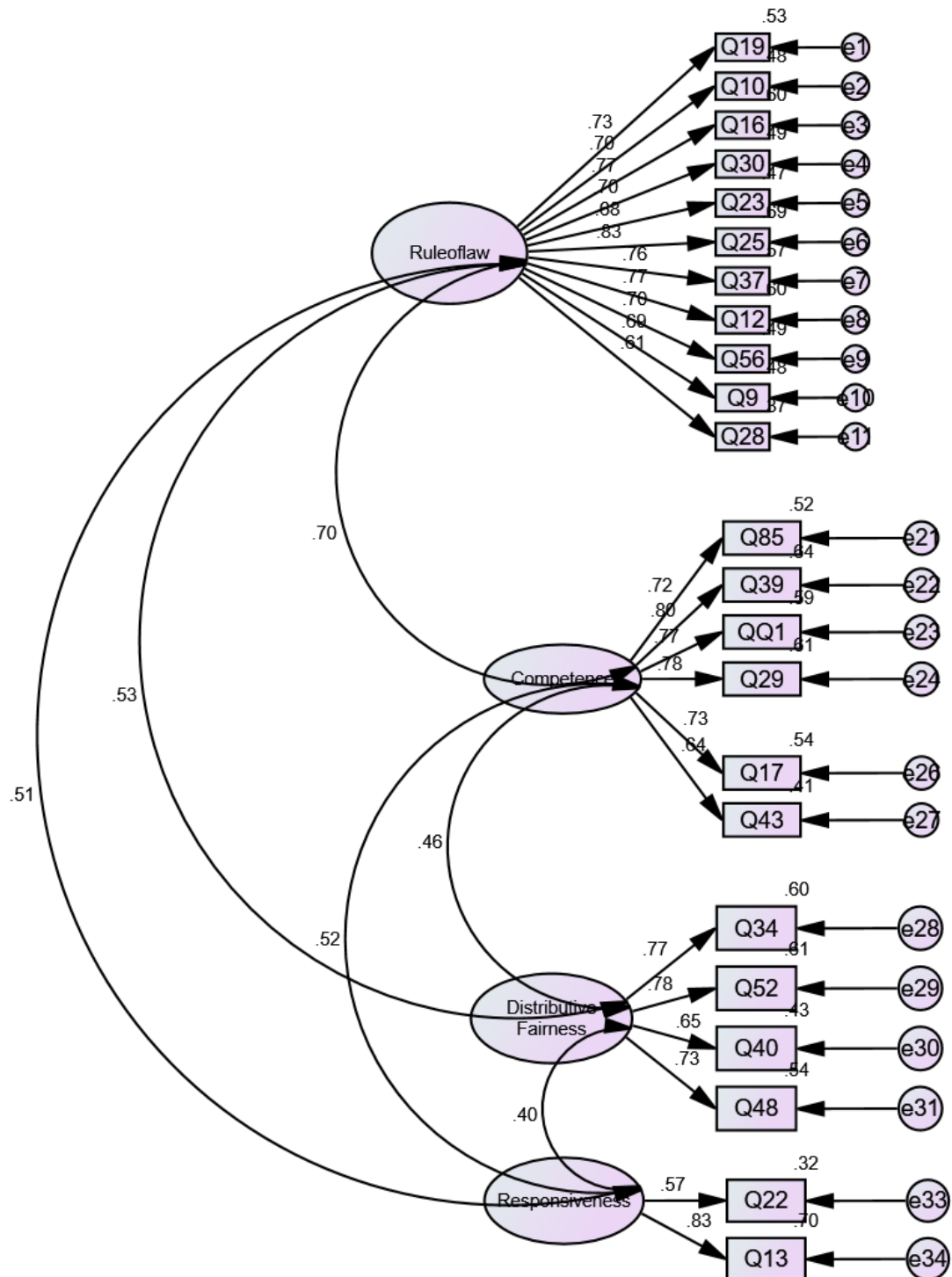
NOTE: the square root of the AVE is displayed on the diagonal in **bold** and the inter-construct correlations are presented in *italics*
N = 226
 * SPSS Amos sometimes does not round up the figures when displaying the model. In this case rounding up was done manually.

As shown in Table 7, the CR was above 0.70 for all dimensions indicating good reliability. The AVE was above the threshold for the rule of law, competence and distributive fairness dimensions, demonstrating good convergent validity but below the threshold for effectiveness and responsiveness. Malhotra and Dash (2011) however argue that if the CR is

above 0.70, it can be concluded that the convergent validity of the scale is acceptable. All factor loadings were above 0.4, and most factor loadings were above 0.6 thus indicating good convergent validity except for Q65 (0.53) under the rule of law, Q57 as well as Q64 under effectiveness (0.59/0.58), Q70 under competence (0.51) and Q14 under responsiveness (0.55). The results pertaining to the discriminant validity, similarly to those of convergent validity, were equally mixed. The MSV was well below the AVE for competence, distributive fairness and responsiveness indicating good discriminant validity. The MSV was above the AVE for effectiveness and slightly above the AVE for the rule of law. The square root of the AVE (i) for the rule law was greater than all inter-construct correlations apart from the correlation between the rule of law and effectiveness; (ii) for effectiveness was greater than all inter-construct correlations apart from the correlations between rule of law and effectiveness, rule of law and competence and effectiveness and competence; (iii) for competence was greater than all inter-construct correlation except for the correlations between rule of law and effectiveness; (iv) for distributive fairness was greater than all inter-construct correlations but was equal to the correlations between rule of law and effectiveness; and (v) for responsiveness was almost equal to the correlation between effectiveness and competence and greater than all inter-construct correlations except for the correlation between rule of law and effectiveness and rule of law and competence. The ASV for all scales was lower than the AVE, thus demonstrating good discriminant validity for all dimensions. This was not the case when examining the inter-construct correlations. While the between-construct correlations for rule of law and effectiveness, for rule of law and competence, and for competence and effectiveness were quite high (over 0.6) thus indicating poor discriminant validity between these construct, the between-construct correlations for rule of law and distributive fairness, rule of law and responsiveness, effectiveness and distributive fairness, effectiveness and responsiveness, competence and distributive fairness, competence and responsiveness and distributive fairness and responsiveness were quite low (below 0.6) thus indicating good discriminant validity between these constructs. Given that the between-construct correlations for rule of law and effectiveness, for rule of law and competence, and for competence and effectiveness were all quite high, with the strongest correlations between reported for rule of law and effectiveness and for rule of law and competence, it is possible that the items measuring these constructs were actually measuring the same underlying construct. In order to resolve this issue of discriminant validity which could lead to issues of multicollinearity when examining the relationship between perceptions

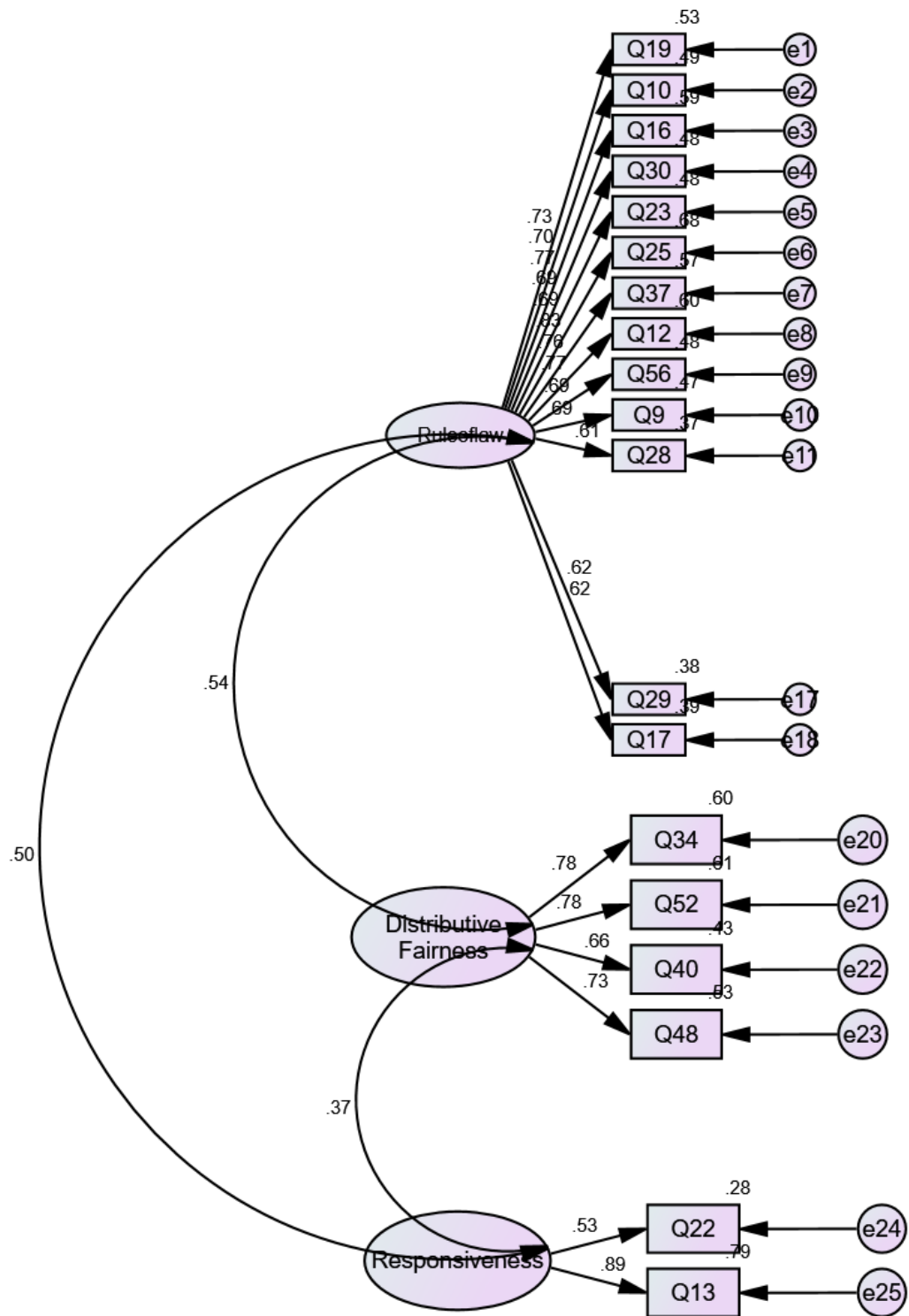
of MFSA audience legitimacy and compliance and cooperation two revised models were constructed and tested using CFA. The first was a four-factor model comprising: (i) the combined dimensions of rule of law and effectiveness (referred to as new rule of law 1), (ii) competence; (iii) distributive fairness; and (iv) responsiveness. The second was a three-factor model comprising: (i) the combined dimensions of rule of law, effectiveness and competence (new rule of law 2); (ii) distributive fairness, and (iii) responsiveness. Owing to the study's small sample, when reporting the results of these CFA models, only factor loadings above 0.6 were retained (Comrey and Lee, 1982; Garson, 2010). Figures 2 and 3 display the four-factor and three factor-models, respectively. Table 8 contains a comparison of the items contained in each model and Table 9 contains the CFA results pertaining to the four-factor and three-factor models.

Figure 2: BLD Four-Factor Model



NOTES: N = 226

Figure 3: BLD Three-Factor Model



NOTES: N = 226

Table 8. Comparison of items in five-factor, four-factor and three-factor models

Item	BLD Five Factor Model	BLD Four Factor Model	BLD Three Factor Model
Rule of Law			
In dealing with operators, the MFSA exercises its powers in good faith (Q19)	X	X	X
I find the attitude of MFSA staff to be hostile (Q10)	X	X	X
The MFSA and its staff act as if they are above the law (Q16)	X	X	X
The MFSA sometimes abuses its powers (Q30)	X	X	X
MFSA decisions are usually fair (Q23)	X	X	X
I trust the MFSA (Q25)	X	X	X
The MFSA treats operators fairly (Q37)	X	X	X
I find it hard to trust MFSA staff (Q12)	X	X	X
The MFSA does not apply the law fairly (Q56)	X	X	X
When the MFSA deals with operators it always acts according to law (Q9)	X	X	X
Things only go your way if you know the right people at the MFSA (Q28)	X	X	X
Staff at the MFSA are willing to support the operator (Q65)	X		
Effectiveness			
The MFSA is doing a good job investigating regulatory violations (Q61)	X		
The MFSA does not respond quickly enough to breaches committed by	X		

operators (Q44)				
The MFSA ensures high standards of conduct from operators (Q69)	X			
The MFSA is doing a good job supervising operators (Q63)	X			
The MFSA is doing a good job protecting Malta's reputation as a financial services centre (Q73)	X			
The MFSA is too close to some operators (Q64)	X			
The MFSA's decision-making process is open and transparent (Q11)	X			
The MFSA ensures that the right entities/people are licensed (Q57)	X			
Competence				
Staff at the MFSA appear properly trained for their roles (Q85)	X	X		
MFSA staff have the technical (specialized) knowledge to discharge their functions (Q39)	X	X		
Staff at the MFSA have the necessary regulatory experience to discharge their functions (Q1)	X	X		
MFSA staff know how to carry out their roles well (Q29)	X	X		X
Staff at the MFSA are not well versed in the relevant regulations (Q70)	X			
Staff at the MFSA understand how the law applies in practice (Q17)	X	X		X
The regulator understands the economic landscape in which the operator	X	X		

operates (Q43)			
Distributive Fairness			
The regulator adopts a one-size-fits-all approach to regulation (Q34)	X	X	X
The regulator adopts a one-size-fits-all approach to supervision (Q52)	X	X	X
The MFSA is too rigid in the way it applies the law (Q40) *	X	X	X
The MFSA adopts a tick-the-box approach when carrying out its functions (Q48)	X	X	X
Responsiveness			
The MFSA does not seem to have enough staff to attend to operators (Q14)	X		
The licensing process is too slow (Q22)	X	X	X
The MFSA acts in a timely manner (Q13)	X	X	X

Table 8 shows that in the four-factor and three-factor models, the items pertaining to effectiveness were omitted, as were most of the items in the competence dimension due to their factor loadings being below 0.6. Although the rule of law dimension in the four-factor and three-factor models omits items related to effectiveness, in the discussion to follow and for the purposes of clarity, the factor combining rule of law and effectiveness and the factors combining rule of law, effectiveness and competence dimensions will be referred to as the rule of law. In Table 8, one item from the responsiveness dimension (Q14) was omitted due to its factor loading being below 0.4. Another item (Q22) had a factor loading below 0.6 but above 0.5 and was not deleted because factors should have a minimum of two items in order to perform a CFA (Byrne, 1998).

Table 9. Goodness-of-fit statistics for BLD five-factor, four-factor and three-factor models

	BLD 5 Factor Model	BLD 4 Factor Model	BLD 3 Factor Model
CMIN/DF – missing data (226)	1.718	1.771	1.741
CMIN/DF – no missing data (181)	1.584	1.703	1.785
CFI – missing data (226)	0.898	0.934	0.945
CFI – no missing data (181)	0.900	0.927	0.931
RMSEA – missing data (226)	0.056	0.059	0.057
RMSEA – no missing data (181)	0.057	0.063	0.066
SRMR (181)	0.0698	0.0659	0.0570

Examining the goodness-of-fit statistics for the four-factor model in Table 9 it is clear that the CMIN/DF ratios of 1.771 and 1.703 suggest an acceptable-fitting model even though these values were higher than the five-factor model. In contrast to the five-factor model, employing the first combinational rule demonstrated an acceptable fit to the data. The CFI values of 0.934 and 0.927 and the SRMR value of 0.0659 suggest an acceptable fit. Using the second combinational rule also indicates an acceptable fit to the data. Specifically, the SRMR of 0.0698 and an RSMEA values of 0.059 and 0.053 indicate that the hypothesized four-factor model is an acceptable fit of the data. In sum, using both the first and second combinational rules presents an acceptable fit to the data for the four-factor model in contrast to the five-factor model.

Turning to the goodness-of-fit measures for the three-factor model in Table 9 it is evident that the CMIN/DF values of 1.741 and 1.785 suggest an acceptable-fitting model even though these values are higher than both the five-factor and the four-factor models. Using the first combinational rule yields a *more* acceptable fit than the four-factor model. The CFI values of 0.945 and 0.931 suggest a more acceptable fit because these values are near to 0.95 in contrast to the five-factor and four-factor models. The SRMR of 0.0570 also demonstrates a more reasonable fit than both the five-factor and the four-factor models. Using the second combinational rule in the three-factor model additionally indicates a more acceptable fit to the data than the five-factor and four-factor models. Specifically, the SRMR

of 0.0570 and RSMEA values of 0.057 and 0.066 indicate that the hypothesized three-model has a more acceptable fit of the data than the five-factor and four-factor models. Essentially, the three-factor model yields a better fit than the five-factor and the four-factor models.

Prior to examining the reliability and validity measures for the four-factor and three-factor models, it should be observed that Hu and Bentler's cut-off criteria are not golden standards or absolute guidelines and can prove unduly restrictive (Iacobucci, 2010; Marsh and Wen, 2004). In this regard, Gau (2013:44-45) has suggested the use of a multipronged strategy: "if the CFI is 0.90 and the other measures indicate good fit, then the model may have merit; on the other hand, if the CFI is 0.90 and the other measures are outside their ranges for acceptable fit, then the model should be considered poor". Given that in this research the four-dimensional and three-dimensional models have an "acceptable or reasonable" CFIs of 0.945 and 0.934 and demonstrated a good fit in terms of the other criteria, it can be concluded that both the four-dimensional three-dimensional model may have "merit" (Gau, 2013:44). However, as Lai and Green (2016:233) argue, "we do not know how a model's 'good fit' is reflected in any of these indices" and so "for a model that has 'bad' CFI, does it mean the model is 'good' (or 'bad') if its SRMR [or other indexes are] 'good' (or 'bad') too?" To answer this question, it is crucial to turn to theory (Iacobucci, 2010) because as Hooper et al. (2008:57) observe "[b]y allowing model fit to drive the research process it moves away from the original, theory-testing purpose of structural equation modeling". This will be addressed in the following section.

I now turn to assess the reliability and the convergent and discriminant validity of each dimension for the four-factor and three-factor models. These are presented in Tables 10 and 11 below.

Table 10. Four-factor model reliability, convergent and discriminant validity statistics

	CR	AVE	MSV	ASV	Rule of law 1	Competence	Distributive fairness	Responsiveness
Rule of law 1	0.94	0.52	0.49	0.34	0.72			
Competence	0.93	0.55	0.49	0.32	<i>0.7</i>	0.74		
Distributive								
Fairness	0.84	0.54	0.28	0.22	<i>0.53</i>	<i>0.46</i>	0.73	
Responsiveness	0.7	0.51	0.27	0.23	<i>0.51</i>	<i>0.52</i>	<i>0.4</i>	0.71

NOTE: the square root of the AVE is displayed on the diagonal in **bold** and the inter-construct correlations are presented in *italics*
N = 226

Table 11. Three-factor model reliability, convergent and discriminant validity statistics

	CR	AVE	MSV	ASV	Rule of law 2	Distributive fairness	Responsiveness
Rule of law 2	0.95	0.5	0.29	0.27	0.71		
Distributive fairness	0.84	0.54	0.29	0.22	<i>0.54</i>	0.73	
Responsiveness	0.72	0.54	0.24	0.19	<i>0.50</i>	<i>0.37</i>	0.73

NOTE: the square root of the AVE is displayed on the diagonal in **bold** and the inter-construct correlations are presented in *italics*
N = 226

Beginning with Table 10, it is clear that all constructs apart from responsiveness present a CR above 0.7. The AVE for all dimensions is above 0.5 thus demonstrating good convergent validity. The MSV is also lower than the AVE for all constructs, the square root of the AVE is greater than all inter-construct correlations and the ASV was lower than the AVE for all constructs, thus demonstrating good discriminant validity. However, the correlation between the rule of law 1 and competence is quite high, indicating that these two constructs may be measuring the same underlying construct.

Turning to Table 11, all constructs display a CR above 0.7 demonstrating good reliability. The AVE for rule of law 2 is equal to 0.5 demonstrating borderline convergent validity. As previously noted, Malhotra and Dash (2011) argue that if the CR is above 0.70, it can be concluded that the convergent validity of the scale is acceptable, which is the case for rule of law 2. Moreover, the AVE for rule of law 2 is 0.51 when calculated with no missing data. The AVE is above the threshold for distributive fairness and responsiveness and thus exhibits good convergent validity for these constructs. The MSV is also lower than the AVE for all constructs, the square root of the AVE is greater than all inter-construct correlations and the ASV is lower than the AVE for all constructs, demonstrating good discriminant validity for the three-factor model constructs, a finding similar to the results pertaining to the constructs in the four-factor model. However, in contrast to the four-factor model the between-construct correlations are all approximately 0.5 or below thus indicating good discriminant validity.

From the above it can be reasonably concluded that three-factor model displays a better fit to the data than the five-factor and four-factor models and that its constructs yield more valid measures than those in the five-factor and three-factor models.

The Roles of Legitimacy and Deterrence in explaining Compliance with Regulations

7.0 Preliminary

Legitimacy matters because if a legal authority such as the MFSA is acknowledged as rightful by its audiences (for example, operators or regulatees), then such legitimacy provides moral grounds for cooperation with authorities and compliance with the law (Beetham, 1991). As previously noted in Chapter 2, the few studies that have compared the effects of legitimacy and deterrence on behaviour in organisational, workplace, regulatory and taxation contexts have generally found a stronger association between legitimacy (which as noted has been conceptualized and measured mostly as an obligation to obey) and rule-following behaviour than between deterrence factors and rule-following behaviour. This association is tempered by confusing obligation to obey with legitimacy and by determining the dimensions that constitute legitimacy in advance. This Chapter aims to address these gaps in the Maltese regulatory context by examining the effect of newly developed legitimacy scales and deterrence factors on positive compliance attitudes.

In Chapters 2 and 3 above, I explained that Bottoms-Tankebe's (2012) model conceptualized legitimacy as separate from obligation to obey and that Tankebe (2013) found that obligation to obey mediates the relationship between legitimacy and cooperation. Similar results were reported by Tankebe et al. (2016). This Chapter also aimed to explore whether the new legitimacy scales are conceptually separate from obligation to obey and whether obligation to obey mediates the relationship between the new regulatory legitimacy measures and positive attitudes to compliance.

To summarise, the aims of this Chapter were as follows:

- i. to examine whether legitimacy dimensions or deterrence variables have the greater effect on positive attitudes to compliance; and
- ii. to explore whether the influence on legitimacy is independent of or mediated by obligation to obey the MFSA.

Prior to presenting the findings I wish to briefly describe the measures used in this Chapter.

7.1 Measures

Legitimacy scales

These scales were developed through inductive (interviews) and deductive processes (EFA and CFA techniques). In developing these items, attention was paid to participant's words as well as to concepts already established in the literature, in particular those in the Bottoms-Tankebe (2012/2017) model. Perceptions of the MFSA acting in accordance with the *rule of law* (comprising the sub-scales of lawfulness, procedural fairness and trust) were assessed employing a 13-item scale. The items were then combined to create a rule of law index ($\alpha = 0.928$; mean = 3.49; SD = 0.613). Perceptions of MFSA *distributive fairness* were assessed using a four-item scale. The items were then combined to create a distributive fairness index ($\alpha = 0.825$; mean = 2.51; SD = 0.764). Perceptions of MFSA *responsiveness* were assessed using a two-item scale. The statements were then combined to create a responsiveness index ($\alpha = 0.637$; mean = 2.18; SD = 0.826). All legitimacy items were subsequently combined into a composite legitimacy scale ($\alpha = 0.923$; mean = 3.15; SD = 0.559).

Deterrence

Perceptions of the risk of apprehension were assessed by a single item adapted from Murphy, Bradford and Jackson (2016). This question had a Likert-type response set: 1-not likely at all to 4-very likely. Perceptions of the severity of punishment were assessed by a single item adapted from Grasmick and Bursik (1990). This question had a Likert-type response set: 1-no problem at all to 5-a very big problem. These items were not combined in a scale.

Obligation to obey

Obligation to obey was measured using an eight-item scale adapted from Trinker, Jackson, and Tyler (2018). The statements were then combined to create an obligation to obey index ($\alpha = 0.728$; mean = 3.66; SD = 0.510).

Positive attitudes to compliance

Positive attitudes to compliance were measured using a five-item scale adapted from Braithwaite's (2009, 2013) commitment and capitulations scales. These responses were then

combined to create a positive attitudes to compliance index ($\alpha = 0.635$; mean = 4.11; SD = 0.457).

(Appendix 7 contains a list of all of these items along with their means and standard deviations).

A short note on reliability

Reliability was assessed by examining the correlation coefficient known as Cronbach's alpha. Consistent with Liebling's (2004) research, I employed Cohen and Holliday's (1982) rule of thumb for interpreting this correlation: 0.19 and below = very low; 0.20 to 0.39 = low; 0.40 to 0.69 = acceptable; 0.70 to 0.89 = high; and 0.90 to 1 = very high. From the above it is clear (i) that the combined legitimacy scale and the dimension of the rule of law displayed a *very high-level* of reliability; (ii) the dimensions of distributive fairness and obligation demonstrated high levels of internal consistency; and (iii) the dimensions of responsiveness and positive attitudes to compliance displayed an acceptable level of reliability.

Control variables

Two control variables were included in this study based on other studies (Paternoster and Simpson, 1996; Murphy 2005). Firm size has been hypothesised to be related to offending (Simpson, Garner and Gibbs, 2007; Simpson and Piquero, 2002). The size of an operator was a dummy variable coded in the direction of small- and medium-sized companies. The number of times sanctioned was divided into two categories: never sanctioned and sanctioned. Since 186 operators were never sanctioned and only 31 were sanctioned, those who were sanctioned were omitted from the analysis.

7.2 Findings

7.2.1 Bivariate correlations

Table 12 presents the findings of bivariate correlations between the legitimacy scales, the obligation to obey scale, the deterrence variables and the positive attitudes to compliance index. The correlations between the legitimacy variables are below 0.5 and present no multicollinearity problems (Dormann et al., 2013). The strongest significant correlates of positive attitudes to compliance were the dimensions of obligation to obey ($r = 0.438$, $p < 0.01$) and the rule of law ($r = 0.387$, $p < 0.01$). The deterrence variables and responsiveness displayed weak and insignificant correlations on operators' positive attitudes to compliance. Obligation to obey was also positively and significantly related to the rule of law and

distributive justice scale, but weakly and insignificantly correlated with responsiveness. Given that obligation to obey was related to positive attitudes to compliance and to the legitimacy measures and given that the legitimacy measures (apart from responsiveness) were correlated with positive attitudes to compliance, the necessary empirical conditions for exploring whether the influence of legitimacy is independent of or mediated by obligation to obey the MFSA were satisfied.

Table 12. Bivariate correlations between key research variables

	1	2	3	4	5	6	7	8
1. Legitimacy scale	1							
2. Likelihood of apprehension	.182**	1						
3. Perception of sanction severity	.004	.411**	1					
4. Rule of law	.949**	.189**	-.003	1				
5. Distributive fairness	.703**	.043	.048	.480**	1			
6. Responsiveness	.554**	.186**	-.046	.397**	.341**	1		
7. Obligation to obey	.237**	.079	.039	.221**	.184**	.119	1	
8. Positive attitudes to compliance	.340**	.010	.089	.387**	.186**	-.007	.438**	1

$N = 223-226$; * $p < 0.05$, ** $p < 0.01$

7.2.2 OLS regressions

The results of the OLS regression are presented in Tables 13 and 14. Table 13 contains models 1 and 2. Whereas model 1 explores the relationship between the composite legitimacy scale, deterrence variables and operators' positive attitudes to compliance, model 2 explores the relationship between the rule of law, distributive fairness, responsiveness, deterrence and positive attitudes to compliance. Model 1 reveals a positive significant association between legitimacy and positive attitudes to compliance ($\beta = 0.359$; $p < 0.001$). That is, the more operators perceived the MFSA to be legitimate, the more willing they were to display positive attitudes to compliance with MFSA rules and directives. Model 1 additionally demonstrates a positive significant association between perceptions of the severity of punishment and attitudes to compliance, although the effect was only significant at the 0.05 level ($\beta = 0.141$; $p < 0.05$). Perceptions of the likelihood of apprehension had no significant

effect on intentions to comply. Reviewing the regression coefficients for the separate legitimacy scales in model 2, the data indicated that operators' perceptions of the MFSA acting in accordance with the rule of law was the component of legitimacy that had the largest and most significant effect on operators' positive attitudes to compliance ($\beta = 0.448$; $p < 0.001$), while the component of responsiveness had an inverse relationship with positive attitudes to compliance ($\beta = -0.180$; $p < 0.05$). Unlike the results in model 1, perceptions of the severity of punishment did not have a significant effect on attitudes to compliance yet similar to model 1 perceptions of the likelihood of apprehension had no effect. Essentially, legitimacy factors were stronger predictors of intentions to comply than were deterrence factors. A post-hoc power analysis for model 1 showed that, with medium effect size of ($f^2 = 0.14$) and alpha at 0.05, the sample of 221 yields a power of 0.996. A post-hoc power analysis for model 2 also demonstrated that with a medium effect size of ($f^2 = 0.21$) and alpha at 0.05, the sample of 220 yields a power of .999. This suggests that the sample sizes of 221 and 220 were sufficient to avoid Type I and II errors.

Table 14 which contains models 3 and 4, presents the results of the OLS regression incorporating the variable of obligation to obey. Model 3 explores the impact of obligation to obey and the composite measure of legitimacy. A comparison of models 1 and 3 shows that the insertion of obligation to obey resulted in a significant increase in the value of the adjusted *R*-squared: from 13% to 27%. Comparing models 2 and 4, it can also be seen that the insertion of obligation to obey resulted in a significant increase in the value of the adjusted *R*-squared: from 17% to 31% complementing the previous finding. Two points are of merit here. As Tankebe (2013:123) has observed, this increase suggests that obligation to obey contains a large number of "non-legitimacy issues", apart from deterrence factors. Given that the former *R*-squared value included both deterrence and legitimacy factors and that the value of *r* square increased with the insertion of obligation to obey, it is arguable that obligation to obey incorporates other normative and instrumental issues. These results also support the contention that legitimacy and obligation are separate issues, supporting research conducted by Tankebe (2013) and Tankebe et al. (2016). Comparing models 1 and 3 as well models 2 and 4 it is clear that obligation to obey slightly attenuates the effect of the aggregate legitimacy scale and the component of the rule of law on positive attitudes to compliance, suggesting a mediation effect. A Sobel test was conducted using the aggregate legitimacy scale and showed that obligation to obey mediates the relationship between legitimacy and positive attitudes to compliance (2.90; $p < 0.05$). The effects of legitimacy and of obligation

to obey on positive attitudes to compliance remain even when considering deterrence factors. The implications of these findings will be discussed further below. A post-hoc power analysis for model 3 showed that, with a strong effect size of ($f^2 = 0.36$) and alpha at 0.05, the sample of 221 yields a power of 1. A post-hoc power analysis for model 4 also indicated that, with a strong effect size of ($f^2 = 0.45$) and alpha at 0.05, the sample of 220 yields a power of 1. This also suggests the sample sizes of 221 and 220 were sufficient to avoid Type I and II errors.

The regression coefficients in model 3 show that the strongest predictor for positive attitudes to compliance is obligation to obey followed by the composite legitimacy scale. In this model while the likelihood of apprehension had no significant effect on positive attitudes to compliance, the severity of punishment displayed a positive and significant effect on positive attitudes to compliance. Slight differences are evident in model 4. In contrast to model 3, the strongest predictor of positive attitudes to compliance was rule of law followed by obligation to obey. Responsiveness still displayed a negative and significant effect on positive attitudes to compliance. In contrast to model 3, severity of punishment no longer remains a significant predictor of positive attitudes to compliance yet similar to model 3 the certainty of apprehension was not a significant predictor of positive attitudes to compliance. The component of the rule of law was a stronger predictor of positive attitudes to compliance than were deterrence variables.

On examining all of the Tables, it is noteworthy that none of the control variables exerted a significant effect on operators' positive attitudes to compliance.

Table 13. Legitimacy, deterrence and positive attitudes to compliance

	β	Model 1 (SE)	Tolerance	VIF	β	Model 2 (SE)	Tolerance	VIF
Size of operator								
Small/ Medium	-.100	(.096)	.987	1.013	-.119	(.094)	.979	1.021
Number of Times sanctioned								
Never	-.012	(.077)	.981	1.020	-.033	(.075)	.973	1.028
Legitimacy scale	.359***	(.053)	.942	1.061	-	-	-	-
Rule of law	-	-	-	-	.448***	(.057)	.647	1.545
Distributive fairness	-	-	-	-	.044	(.043)	.710	1.409
Responsiveness	-	-	-	-	-.180*	(.039)	.768	1.301
Obligation to obey	-	-	-	-	-	-	-	-
Certainty of	-.107	(.050)	.788	1.268	-.088	(.050)	.749	1.335

apprehension Severity of punishment	.141*	(.045)	.821	1.218	.127	(.044)	.797	1.255
<i>F Test</i>	7.266***				7.492***			
Adjusted <i>R</i> ²	.125				.172			
<i>N</i>	221				220			

* $p < .05$, ** $p < .0$, *** $p < .001$

Table 14. Legitimacy, deterrence, obligation to obey and positive attitudes to compliance

	β	Model 3 (SE)	Tolerance	VIF	β	Model 4 (SE)	Tolerance	VIF
Size of operator								
Small/ Medium	-.075	(.088)	.983	1.017	-.095	(.086)	.975	1.025
Number of Times sanctioned								
Never	-.008	(.071)	.981	1.020	-.029	(.069)	.973	1.028
Legitimacy scale	.274***	(.049)	.899	1.113	-	-	-	-
Rule of law	-	-	-	-	.386***	(.052)	.636	1.572
Distributive fairness	-	-	-	-	.006	(.040)	.704	1.420
Responsiveness	-	-	-	-	-.176**	(.036)	.768	1.301
Obligation to obey	.386***	(.053)	.940	1.064	.382***	(.052)	.938	1.067
Certainty of apprehension	-.122	(.046)	.787	1.270	-.110	(.046)	.747	1.339
Severity of punishment	.130*	(.041)	.820	1.219	.121	(.041)	.797	1.255
<i>F Test</i>	14.199***				13.285***			
Adjusted <i>R</i> ²	.265				.310			
<i>N</i>	221				220			

* $p < .05$, ** $p < .0$, *** $p < .001$

8

Conclusion

This dissertation began by arguing that empirical studies in criminology adopt a normative approach to conceptualizing and measuring legitimacy by determining a priori the BLDs of the audiences under study and by adapting scales from other studies in order to measure legitimacy. By drawing on Williams (2005) and Bottoms and Tankebe (2012; see also Beetham, 1991), I argued that adopting a normative approach to measuring legitimacy can lead to validity error and distort the relationship between legitimacy and rule-following (or rule-breaking) behaviour both because what justifies authority or power in a particular context reflects a range of variables that cannot be adequately captured by adopting or adapting scales from previous studies as well as because legitimacy dialogues can differ according to the particular context. In order to address this gap in the literature, I adopted the social scientific approach utilized by Liebling (2004) to develop the Measuring Quality of Prison Life survey and proposed by Tankebe (2014) in the policing context, to measure the legitimacy of the MFSA as perceived by one of its main audiences – licensed operators. This social scientific approach involved a mixed-methods design that incorporated an inductive and a deductive stage. The inductive stage involved interviews with MFSA licenced operators licensed and sought to identify what legitimacy means to Maltese operators (that is, what operators expect from the MFSA, what their BLDs are, or in Liebling's (2004) language, what matters to operators licensed by the MFSA and why). The deductive stage entailed the development and administration of a regulatory legitimacy survey informed by the interviews.

Chapter 5 of this dissertation presented the results of the qualitative stage of the research. The interviews with Maltese financial services participants revealed four broad themes or expectations (each with sub-themes or expectations): (a) lawfulness – furthering the objectives of the MFSA, acting *intra vires* and legal certainty; (b) procedural fairness – quality of decision-making, quality of treatment, maintaining boundaries and trust; (c) distributive fairness – a lack of a one-size fits all approach and balanced supervision; and (d) effectiveness dimensions – competence, performance, substance over form, responsiveness, resources, empathy and leadership. These themes resonated with concepts already established

in the criminological, legal, organisational and regulatory literature and provided an inductive theoretical grounding for developing a regulatory legitimacy survey. I now wish to provide some general comments on the overall themes identified in Chapter 5 and some specific remarks pertaining to them. I will begin with the general comments.

To summarise, the themes or expectations derived inductively from the interviews conducted with Maltese financial services participants resonated with: (i) the hypothesised BLDs identified by Bottoms and Tankebe (2017) (lawfulness, procedural justice, distributive justice and effectiveness); (ii) Liebling's (2004) findings that "what mattered" to prisoners were expectations of respect and trust; (iii) the concept of good and right relationships (maintaining boundaries) also identified by Liebling (2011; see also Liebling et al., 2012b); and (iv) Bingham's principles of the rule of law (legal certainty and exercising powers *intra vires*). Bingham's other tenets of the rule of law – equality before the law and a right to a fair trial, encompassing the natural law maxims of *audi alteram partem* (adequate representation) and *nemo judex in causa propria* (independence and impartiality) – were also reflected in the data. Bingham's principles are congruent with Tyler's quality of decision-making arm of procedural justice and even with Beetham's concept of lawfulness (Tankebe, 2013). Ultimately, significant overlap exists between the Bottoms-Tankebe four-component model of legitimacy, Liebling's concepts mirroring the quality of prison life and Bingham's principles of the rule of law.

Muir's (1979) types – avoiders, reciprocators and enforcers – also explicitly emerged as regulatory styles which participants expected the MFSA *not* to adopt. Rather than expecting the MFSA to display under-enforcement or passiveness, over-familiarity and over-enforcement or zealotry, participants expected the regulator to maintain a boundary with the industry to avoid the possibility of regulatory capture affecting its independence and ability to act impartially and to enable it to exercise its authority within reasonable limits and proportionately, while displaying the qualities of empathy, respect and communication. Consequently, what mattered to participants was that the MFSA adopts the style of Muir's fourth type of policeman: the professional. Muir's typology reflects several aspects of the Bottoms-Tankebe framework. The avoider is the antithesis of effectiveness; the enforcer is the upper threshold of distributive justice and of lawfulness; the reciprocator mirrors a lack of impartiality (an aspect of the quality of decision-making) as well as some elements of (un)lawfulness; and the professional reflects all aspects of the Bottoms-Tankebe framework.

The themes that emerged from this study were also consistent with Baldwin's "legitimacy claims" and with the dimensions established in organizational legitimacy. Baldwin (1996:90) approached legitimacy from the standpoint of the power-holder when arguing that a regulator may seek to secure "legitimation" by invoking the following five claims: (i) the legislative claim, by which the regulator claims legitimacy on the basis of delegated power from a parliament that is democratically elected; (ii) the accountability claim, by which the regulator secures legitimacy through measures of accountability; (iii) the due process claim, by which the regulator claims legitimacy on the basis of using fair procedures; (iv) the expertise claim, by which the regulator claims legitimacy on the grounds that it is staffed by experts who are making expert judgements and are acting in the public interest; and (v) the efficiency claim, by which the regulator claims legitimacy on the grounds that it is performing its functions effectively and efficiently. The legislative claim is similar to the expectation of lawfulness; the due process and accountability claims resonate with the expectation of procedural fairness; the expertise claim is analogous with the expectation of competence; and the efficiency claim equates with the expectation of the performance of functions and responsiveness.

The expectation of lawfulness is similar to the concept of regulative legitimacy in the organizational legitimacy literature that stresses conformity with laws (Deephouse and Carter, 2005; Johnson, Dowd and Ridgeway, 2006; Scott, 1995). The BLDs of procedural fairness and the performance of functions are strikingly similar to Suchman's (1995) concepts of procedural legitimacy and consequential legitimacy, respectively.

Examining the four overarching themes of legality, relationships, distributive justice, and effectiveness, it is clear that they must be seen, as Bottoms and Tankebe (2017:85) have observed, "as potentially operating in interaction with one another". For instance, if the MFSA acts lawfully by exercising its powers in accordance with the law to further the objectives of the MFSA, it will be performing its functions effectively. Bottoms and Tankebe (2017) also observed that tensions or conflicts can arise between themes. Given that the regulator wears different hats – that of a guide or shepherd and that of a policeman – conflicts may emerge between the themes explored in this research. By adhering to the expectations of trustworthy motives (giving guidance and providing help and support), it could for example be argued that the regulator is neglecting its other role of supervising operators adequately, instead displaying overfamiliarity and not acting impartially. Alternatively, by acting in an

overbearing manner, the regulator may engage in over-lawfulness and demonstrate a lack of trust in operators.

A final general comment relates to AI, the style in which the interviews were conducted. Although questions were posed that tapped into both positive and negative experiences, it became increasingly evident that the participants expressed their expectations in negative terms, even when asked about their positive experiences. This accords with Lucas' (1980) comment in relation to justice that individuals focus on instances of injustice rather than justice.

Having provided some general comments about the expectations of financial services participants, I now turn to offer some specific comments on these expectations. As previously noted, criminologists working on legitimacy disagree on whether effectiveness, competence and responsiveness are instrumental or normative (see, generally, Sunshine and Tyler, 2003 vs. Bottoms and Tankebe 2017, 2020). This depends on whether researchers employ quantitative or qualitative methods. While those that are quantitative (for instance most studies following Sunshine and Tyler, 2003) tend to regard effectiveness considerations as instrumental, those that are qualitative (for instance Liebling, 2004) tend to regard them as normative. Similar to findings reported by Kearns et al (2019), these factors emerged in the current research as normative considerations. Kearns, Ashooh and Lowrey-Kinberg (2019) conducted an exploratory study in the U.S. to understand how the public conceptualises police legitimacy by asking participants to define legitimacy. To address this question Kearns et. al (2019) asked a sample of 1,900 U.S. residents the open-ended question: "when thinking about the police, what does 'legitimacy' mean to you?". Overall the results showed, that participants mostly defined police legitimacy in terms of following the law (37%), followed by honesty (19%), fairness (11%), right to govern (11%), effectiveness (9%), moral behaviour (9%) and providing protection (5%). The categories identified by Kearns et. al correspond closely with the BLDs that emerged in this study. The dimensions of lawfulness, procedural fairness, trust and competence correspond with the categories of following the law, fairness, honesty and effectiveness/providing protection. The dimension of distributive fairness corresponds to the category of fairness and the dimension of responsiveness corresponds to the dimensions of effectiveness and providing protection. Maltese financial services participants, similar to those in Kearns et al's research, expressed instrumental considerations in normative terms – that is, the licenced operators interviewed considered it right and proper for the regulator to perform its functions effectively and efficiently with

competent staff. The reverse was also true of other themes. For instance, the normative theme of legal certainty became an instrumental consideration. Participants required legal certainty in order to conduct their business and advise clients. In a sense, dimensions can take on both a normative and an instrumental character. This may be due to the fact that financial services is a profit-gearred industry. Operators are there to make money for their shareholders and to provide a service for their clients, objectives that may also conflict with one another.

The expectation of maintaining boundaries to avoid overfamiliarity highlights a societal feature of Malta that has been documented by Boissevain (1974). In his study on Malta, Boissevain (1974:232) concluded that Maltese people are continually competing for valued scarce goods and resources (important goals) and forge a network of “friends-of-friends” to obtain them. In the Maltese financial services context, it was clear that a network exists in which certain financial services operators build contacts with individuals at all levels of the MFSA (in particular the Chairman) and used them to realise their corporate goals, such as obtaining a licence to provide financial services faster than others. This is why many of the participants expected MFSA officials to act impartially and independently.

Majone (1996) argued that independent regulatory agencies (IRAs), as non-majoritarian institutions (public bodies that are not directly accountable to the public or to elected officials), suffer from an inherent democratic legitimacy deficit. According to Majone (1998), this is because democratically elected governments may delegate policy-making powers to IRAs but not their own legitimacy. He proposes that this legitimacy deficit can be addressed not by reducing the independence of IRAs, but by adhering to procedural and substantive legitimacy principles. Procedural legitimacy involves improving accountability and transparency by giving reasons for decisions and by ensuring public participation and avenues for judicial review, and is therefore similar to some aspects of Tyler’s quality of decision-making. This research provides partial support to Majone’s thesis through the finding that participants expected the MFSA to adhere to procedural legitimacy. However, and in contrast to Majone’s argument, they also emphasised the independence of the MFSA from the government. This was due to the political climate and culture in Malta, which engenders a perception that the MFSA is captured by the government.

Two themes, transparency and respect, were mutual expectations. This may be understood through the lens of Honneth’s (2005) struggle for recognition thesis. Anderson⁴¹ has succinctly summarised Honneth’s argument as follows: it is only through a continual

⁴¹ Anderson is the translator of Honneth’s (2005) *The Struggle for Recognition - The Moral Grammar of Social Conflicts*. Anderson provides the summary in the introduction to Honneth’s work.

struggle of *mutual* recognition of love, legal relations and solidarity that an individual is able to acquire the pre-requisites for identity-formation: self-confidence, self-respect, and self-esteem. Using Honneth's thesis as a lens, the MFSA can be understood as being constantly engaged in a struggle for mutual recognition: operators continually expect to be treated with respect and utmost transparency by the regulator, demands that can only be met where participants reciprocate these expectations.

The purpose of this discussion has not been to validate normative theoretical frameworks by recourse to the empirical but rather to provide a solid theoretical grounding to develop questions or statements that can be utilized to measure operators' perceptions of the legitimacy of the financial regulator. This study has demonstrated for the first time that using a grounded approach to conceptualizing and measuring regulatory legitimacy yields dimensions similar to those already established in criminological, organisational and regulatory literature. This suggests that future studies seeking to conceptualize and measure legitimacy in other regulatory contexts (for instance in the UK) should consider employing a similar empirical, bottom-up approach. This would represent an important step in enhancing regulatory legitimacy. However, does this mean that all expectations or BLDs must be accepted by a regulator, including the MFSA? Is legitimacy only about pleasing regulatees? (Sparks and Bottoms, 1995).

To complete the discussion on legitimacy, it is necessary to bridge the gap between the empirical and the normative (Bottoms and Tankebe, 2012). Three points are of relevance here. First, given that the BLDs distilled from this research (lawfulness, procedural justice, trust, distributive justice and effectiveness) are similar to established legitimacy theoretical frameworks and to concepts that have been empirically established in the policing and prisons literature, a move towards a certain degree of universality of themes is evident. This confirms Beetham's (1991:22) observation that there is "an underlying structure of legitimacy common to all societies, however much its content will vary from one to the other". Second, the BLDs of lawfulness, legal certainty and procedural justice (reflected in Bingham's principles of the rule of law) provide a universal normative touch to the BLDs inductively identified through the interviews. Third, although Williams' BLD does provide a "partial normative break" (Bottoms and Tankebe, 2017:68) because Williams insists that the BLD "requires a legitimation to be given to every subject", it is, as Bottoms and Tankebe (2017:69) have observed, "in Hinsch's terms, empirical". Bottoms and Tankebe (2017:69) proposed that for the BLD "to be fully adequate it requires some objective normative

buttressing,” and this comes in the form of Sen’s (2009) impartial spectator strategy. Sen’s concept of the impartial spectator extends Smith’s (1976) own concept of the impartial spectator by drawing on Rawls’s (1972) “veil of ignorance”. The difference between Rawls’s “veil of ignorance” and Sen’s impartial spectator is that while in terms of the former concept individuals who make judgements will eventually become part of that society, in terms of the latter, judgements are allowed to be made by individuals who are extraneous to that society (Bottoms and Tankebe, 2017).

In employing Sen’s impartial spectator approach, I suggest that not all themes pass a normative test. Specifically, I am referring to the themes of approachability and accessibility. It appeared to me that these expectations are in a liminal position to the theme of maintaining boundaries. In the case of some participants, it was evident that the MFSA is so approachable and accessible that their relationship transcends the regulator-regulatee divide to the extent that it seems to be one based on friendship. Here I wish to refer to a degree of hypocrisy or duplicity on the part of such participants, casting doubt on the authenticity of their demands and consequently their intentions. For example, Oberon explained that on requesting a meeting with MFSA officials, he was allowed to visit at short notice. Yet he acknowledged that while he does not seek favour, he has forged close relationships with these members of staff. In another part of the interview, however, he lamented that there are individuals who obtain appointments quickly owing to their political connections (in particular, overfamiliarity with the Chairman) and that this should change. The contradiction is that although he attempts to avoid these situations, he is nonetheless one of those individuals who profits from setting up meetings at short notice because of his friendships, while simultaneously insisting that he wants the MFSA to maintain a boundary. Similarly, Cordelia regarded the MFSA as impartial in the sense that it does not discriminate between one entity and another, while at the same time conceding that she has what other participants described as a “hotline” to the top officials. This may point to the ontological nature of the duality of man. Nevertheless, this contradiction might be explained by way of nuance: although these participants had connections with high-level individuals (specifically the directors of the various units within the MFSA), they frowned upon those who used their connections to access the *highest* level of the MFSA, that is, the Chairman.

In Chapter 6, which reported the results of the quantitative stage of the research, the themes obtained inductively from the interview stage were operationalized and a survey was distributed to a random sample of licensed operators and practitioners in the Maltese financial

services sector. This Chapter identified a multi-dimensional legitimacy scale, comprising five sub-scales using EFA analysis. It has specifically focussed on the legitimacy of the MFSA from the perspective of operators. The first sub-scale, *the rule of law*, measured perceptions of MFSA lawfulness, procedural fairness and trust among operators. The second sub-scale, *effectiveness*, measured the extent to which operators perceived the MFSA to be effectively performing its functions. The third sub-scale, *competence*, measured the extent to which operators perceived the MFSA to have the skills, knowledge, experience and training to discharge their functions. The fourth sub-scale, distributive fairness, measured the extent to which operators perceived the MFSA to use a one-size-fits-all approach and to act in an overbearing manner. The fifth sub-scale, responsiveness, measured the extent to which operators perceived the MFSA to be fast-acting.

Using CFA analysis, Chapter 6 has shown mixed results: the five-factor legitimacy model suffered from a poor fit using Hu and Bentler's first combinational rule but from an acceptable fit using the second combinational rule. The convergent and discriminant validity results were equally mixed. Significantly, the correlations between rule of law, effectiveness and competence were quite high. Two CFA models – a four-factor model and a three-factor model – were then tested. The four-factor model combined the rule of law dimension with the effectiveness dimension and the three-factor model combined the rule of law of dimension with the effectiveness and competence dimensions. In running these models, items with factor loadings below 0.6 were omitted (except for one item Q22 under the responsiveness dimension), resulting in all of the items measuring the concept of effectiveness and all but two of the items measuring the concept of competence being removed from the models. Although the four-factor model yielded a better fit than the five-factor model and demonstrated better convergent and discriminant validity than the five-factor model, correlations between the rule of law dimension and competence remained rather high. In comparison to the five-factor and four-factor models, the three-factor model (comprising the dimensions of rule of law, distributive fairness and responsiveness) yielded a more acceptable fit to the data and displayed better convergent and discriminant validity. This raises the issue of whether the three-dimensional scale is a valid reflection of the BLDs of MFSA licensed operators. That is whether the three-dimensional scale is internally valid. Despite the non-random sample of interviewees which were utilized to provide an inductive theoretical grounding to the survey and the small sample size in the exploratory and confirmatory factor analyses, it is still possible to conclude that the BLDs of rule of law (comprising the

components of lawfulness, procedural fairness, trust and competence), distributive fairness and responsiveness are valid measures of MFSA regulatory legitimacy. This is not only because of the inductive grounding of the survey items, of the acceptable goodness-of-fit measures, and of the results pertaining to convergent and discriminant validity, but also because independent sources provided a level of verification that the three-dimensional scale reflects the BLDs of MFSA licensed operators. During the course of the research, an article was published in the Sunday Times of Malta (25 March 2018) entitled “When Banking Supervision Fails”. While this article specifically regarded the banking sector, many of the points made applied to other sectors within the Maltese financial services industry. The article argued that the MFSA’s supervision of Pilatus Bank failed because the Authority did not conduct its duties according to law, adopted a tick-the-box function to licensing, lacked impartiality and failed to act in a timely manner when the bank was faced with allegations of money laundering – all themes reflected in the three-dimensional model. Recommendations by the IMF (Country Report No 16/69) to increase the MFSA’s independence, timeliness and competence provides further support to the validity of the three-dimensional measure. The IMF report explicitly mentioned that the MFSA needs to be adequately resourced to be able to perform its functions effectively. A more recent report by MoneyVal (2019) echoed the recommendations made by the IMF by advising that Maltese supervisory authorities (specifically the MFSA and the FIAU) be adequately resourced with competent staff to effectively perform their functions. In Chapter 6 the items specifically measuring the recommendations of adequate resources and effectiveness were omitted from the models because the items demonstrated low factor loadings. Nonetheless, the recommendation of effectiveness in performing the MFSA’s functions can be subsumed in the sub-scales of competence and lawfulness as the items which measure these concepts can also tap into the concept of effectiveness. Moreover, informal conversations with Maltese financial services practitioners continue to reveal similar expectations: that the MFSA must act according to law, within its powers and in a timely and proportional manner while being staffed by competent individuals.

Having discussed issues pertaining to internal validity I turn to the issue of external validity. Are the expectations of the rule of law (comprising lawfulness, trust, procedural fairness and competence), distributive fairness and responsiveness generalisable to other audiences? A few points are worth noting here. First, the main aim of this study was to measure the legitimacy of the MFSA from the perspective of licenced operators and not from

the perspective of other audiences such as the general public. Second, as both Beetham (2013) and Worden and McLean (2017) have observed, different audiences have different claims, expectations or demands. That is, audiences are heterogeneous and not homogeneous. Consequently, by focusing on licenced operators as my study has done, we can only draw conclusions about that audience. Yet, it is expected the findings might hold some validity among similar audiences elsewhere. Whether they can be generalised to other audiences such as the general public can only be answered through similar research with a sample of the public. One recent empirical study conducted by Kearns et al (2019) (see above), however, does shed some light on the generalisability of the three dimensional BLD model identified in this research. Since Kearns et. al (2019) employed an open-ended question with no prompting it is arguable that the three-dimensional model reflects the BLDs of ordinary citizens and its thus generalisable to other contexts. However, Kearns et al. (2019) also found various between-race and within-race differences in people's definitions of legitimacy. This suggests that different audiences have different expectations or demands. Future research should test the extent to which the three-dimensional model is generalizable outside the Maltese financial services context.

In summary, through exploratory and confirmatory factor analysis conducted in Chapter 6 a three-dimensional model was deduced from the data comprising the components of: (a) rule of law, measuring perceptions of MFSA lawfulness, procedural justice, trust and competence; (b) distributive fairness; and (c) responsiveness.

Before providing some specific comments in regard to these dimensions, I wish to highlight why I named the latent construct “the rule of law” even though it included items related to competence, specifically MFSA staff know how to carry out their roles well (Q29) and staff at the MFSA understand how the law applies in practice (Q17). As previously noted, lawfulness, procedural fairness and trust are all aspects of the rule of law (Bingham, 2010). Bingham explicitly considered lawfulness his fourth principle of the rule of law which included elements of fairness and trust. He did not, however, consider competence as an element of the rule of the law. Drawing on MacIntyre's (2013:69) “functional concepts”, I argue that competence is an element of the rule of law. MacIntyre (2013:69) contended that a watch has the function of telling the time and therefore “the concept of a watch cannot be defined independently of the concept of a good watch”. Participants' expectation that the MFSA acts *intra vires* (that is, within its powers) carries with it the obligation to advance the objectives of the MFSA Act; and it is only possible to exercise powers for the purposes for

which they are conferred if the individuals exercising those powers had the skill, knowledge and expertise to exercise those powers. In this regard, it can also be argued that the items measuring competence could also be considered as tapping into the concept of effectiveness (Tankebe, 2013). Moreover, competence may also be an aspect of the rule of law through procedural fairness. Paternoster et al. (1997) cited Leventhal's (1976, 1980) six branches of procedural fairness, one of which being the accuracy of procedures. Paternoster et al. (1997:168) defined accuracy of procedures in terms of the "ability of authorities to make competent, high quality decisions". This involved using valid and reliable evidence when deciding cases. Although Paternoster et al. (1997) did not make reference to the knowledge or skill of legal authorities it is implicit that an authority cannot deliver high quality decisions without possessing the knowledge or skill to do so. Given that competence may be an element of procedural fairness, which is in turn clearly a component of the rule of law, it follows that competence can be regarded as an element of the rule of law.

Lawfulness

The finding that lawfulness is a dimension of Maltese regulatory legitimacy supports Beetham's (1991) broad hypothesis that legality is a constitutive criterion of audience legitimacy across all contexts and is consistent with research finding that lawfulness is a key construct that explains police legitimacy (Tankebe, 2013; Tankebe, Reisig and Wang 2016). Consistent with Beetham (1991) and, by extension, the Bottoms-Tankebe conceptualization and measurement of legitimacy, Maltese financial services participants expected the MFSA to exercise their powers in accordance with the law. This aspect of lawfulness is similar to the dimension of "regulative legitimacy" in organisational legitimacy which stresses conformity with the law (Scott, 1995). The expectation of acting in accordance with the law is also congruent with an aspect of Bingham's (2010) fourth principle of the rule of law, requiring public officials to exercise their powers *intra vires* as opposed to *ultra vires*. MFSA-licensed operators not only expected the MFSA to act in accordance with the law but to exercise their powers in a way that demonstrates good faith, an aspect of lawfulness also embodied in Bingham's (2010) fourth principle of the rule of law.

Procedural justice

Resonating with Bottoms-Tankebe's (2012) four-component model of police legitimacy, procedural justice also emerged as a significant construct explaining the legitimacy of the MFSA as perceived by operators. Participants expected the MFSA to act fairly, to give fair decisions, to be impartial, and to be courteous, concepts embodied in

Tyler's (2003; see also Sunshine and Tyler, 2003) quality of decision-making and quality of treatment, two elements that form the construct of procedural fairness. The concept of procedural justice echoes Suchman's concept of procedural legitimacy in organisational legitimacy as well as Baldwin's (1995) due process claim. The finding that the concepts of procedural justice and lawfulness loaded together on the same construct – that of the rule of law – corresponded with Tankebe's (2013) observation that elements of Tyler's procedural fairness are incorporated within Beetham's (1991) argument that power-holders must exercise their powers in accordance with the law. The results that lawfulness and procedural fairness loaded together also chimed with Bingham's (2010) fourth principle of the rule of law emphasising that public authorities must exercise their powers fairly. To support this argument, Bingham (2010:62) cited Lord Steyn's observation that "the rule of law enforces minimum standards of fairness, both substantive and procedural".

Trust

In line with previous studies in police (Tyler and Huo, 2002) and prisons (Liebling, 2004) literature, institutional trust emerged as a significant element of MFSA legitimacy. The finding that lawfulness and trust loaded together on the same construct complemented arguments made by Bingham (2010) when discussing the requirement that public officers exercise their powers *intra vires*. Bingham (2010) cited the reasoning of the House of Lords in *R v Tower Hamlets London Borough Council, ex p. Chetnik Developments Ltd* ([1988] AC 858, 872) in which the court quoted Wade (1982:357): "[s]tatutory power conferred for public purposes is conferred as it were upon trust, not absolutely - that is to say, it can validly be used only in the right and proper way which Parliament when conferring it is presumed to have intended". The finding that procedural justice and trust loaded together on the same construct was also congruent with a comment made by Tyler (2003) in relation to motive-based trust. Indeed, Tyler (2003:299) maintained that trust and procedural justice are intrinsically connected, because when individuals trust authorities, they perceive the procedures they use to be fairer, increasing their trust in them. Empirical research conducted by Johnson et al. (2014) has reinforced Tyler's argument that trust and procedural justice are intertwined through the finding that the quality of decision-making and quality of treatment overlapped heavily with institutional trust. However, such findings conflict with Kaina (2008) and Barbalet (2009) who argued that legitimacy and trust are conceptually distinct and that conflating the two obfuscates a proper account of trust, and therefore trust should not be regarded as a component of legitimacy but as a separate element. Examining the definitions

of trust and legitimacy can shed some light on why trust and procedural justice are conceptually distinct but empirically similar. Kaina cited Easton's (1979:258) definition of legitimacy who explained that legitimacy results when people perceive that authorities are "conforming with [their] own moral principles, [their] own sense of what is right and proper". Johnson et al. (2014:966) referred to Miller and Listhaug (1990:358) who defined trust as evaluations that authorities act "in accordance with normative expectations held by the public". In this research the BLDs of trust and of procedural justice were normative expectations, in that operators want to trust the MFSA and want the MFSA to treat them in a procedurally fair manner. It can be argued that to the extent that the MFSA is trusted by operators and that operators feel they are treated in accordance with the precepts of procedural fairness (that is, whether the MFSA is conforming to what operators believe to be right and proper) then trust and procedural fairness are empirically similar and are components of legitimacy.

Competence

Participants also expected the MFSA to be competent, specifically that it be staffed by knowledgeable and skilled individuals. The finding that competence is a dimension of MFSA audience legitimacy resonates with Wrong's (1995:57) comment that in hierarchical relationships, the relationship between competent authority and legitimate authority may become blurred, as well as with Baldwin's (1996) argument that regulators claim "legitimacy" by invoking an expertise rationale. In criminology, although competence is not *explicitly* considered as a component of legitimacy, it is still reflected in some studies. Paternoster et al. (1997) define the accuracy of a procedure as the ability of decision-makers to deliver technically competent decisions. However, Levi, Sacks, and Tyler (2009) viewed administrative competence as one of the antecedents to trustworthiness, which in turn was treated as an antecedent to legitimacy (measured in terms of an obligation to obey). In their study, competence had two distinct attributes: honesty and the capacity to enforce the tax law. Some researchers use the terms "competence" and "effectiveness" or "performance" interchangeably. For example, while discussing the component of effectiveness in the context of shared values, Tankebe (2013:112) has argued that audiences require legal authorities to be "competent (or effective) in their tasks". Similarly, when discussing their findings relating to police performance in fighting crime, Tyler, Fagan and Geller (2014:775) remarked that "perceptions of general police competence in fighting crime shaped perceived legitimacy". This is plausible because competent individuals enhance a legal authority's effectiveness.

Distributive fairness

Consistent with the Bottoms-Tankebe (2017) conceptualization of legitimacy (implicit in Bottoms and Tankebe (2012)), Maltese financial services participants also expected to be treated in a manner that displays distributive fairness. The concept of distributive fairness relates to the fair distribution or allocation of positive and negative resources or outcomes across different social and demographic groups (Schminke, Ambrose and Cropanzano, 2000; Tankebe 2019b; Tyler and Fagan, 2008). In this research the concept of distributive fairness incorporated the notions of not measuring everyone with the same ruler and of proportional fairness (Adams, 1965; Roberson and Colquitt, 2005). Maltese financial services participants expected the MFSA to adopt Aristotle's "golden mean" when exercising its regulatory and supervisory functions by adopting a balanced approach to regulation and to supervision, that is, they expected the MFSA not to adopt a one-size-fits-all approach to regulation and supervision. In addition, operators did not want a "nanny regulator": one that acts like an "enforcer" (Muir, 1979) or adopts an overbearing or authoritarian parenting style (Baumrind, 1991b) in implementing the law rigidly. Alternatively, to use the language of Crewe (2011:510), operators did not want to be supervised in a manner exhibiting "weight" or "tightness". Rather they expected the MFSA to act like Muir's "professional" who looks at the substance and spirit of compliance. This BLD is also an expectation of financial services operators in other EU jurisdictions (Kyriakou, 2018).

Responsiveness

Participants expected the MFSA to act quickly and efficiently. The finding that responsiveness is a component of regulatory legitimacy is congruent with Baldwin's (1996) proposition that regulators seek to gain "legitimacy" by invoking an efficiency rationale. In criminology, responsiveness in the sense of acting promptly is frequently incorporated as an item when measuring police effectiveness or performance (Sunshine and Tyler, 2003; Tankebe, 2013, 2008, 2009a, 2009b). This makes sense as the faster a legal authority responds to or addresses an audience's concerns, the more effective a power-holder will be. The concept of responsiveness in this study stands in contrast to: (i) Mastrofski's (1999:2) expectation of the police being a "responsive service" and to Van Craen and Skogan's (2015) conceptualization of police un-responsiveness which are associated with notions of trustworthy motives (showing care and concern) (Jonathan-Zamir, Mastrofski and Moyal, 2015), giving reasons for decisions and providing citizens with voice and representation; as

well as (ii) Kane's (2005:475) concept of police responsiveness, defined in terms of "over- and under-policing", which resonates more with the expectation of distributive fairness.

Having described the three dimensions of MFSA regulatory legitimacy as perceived by operators, I wish to briefly focus on evidence of a relationship between these dimensions and behaviour in organisational, workplace, regulatory and taxation contexts. Beginning with the sub-dimensions of lawfulness and procedural fairness, Feldman and Tyler (2012) found that when employees perceived procedural fairness to emanate from a *legally mandated* voice in performance procedures, this interaction effect resulted in increased compliance with workplace rules. In the taxation context, Murphy et al. (2009) found that perceived legitimacy of the law (operationalized in terms of moral values) influenced the motivational posture of commitment and self-reported compliance behaviour. In that study, Murphy et al. (2009) also found that perceptions of procedural fairness were associated with self-reported compliance behaviour, a finding that complements the results of earlier studies (Hartner et al., 2008; Murphy, 2005; Verboon and Goslinga, 2009). Recent studies have also demonstrated the association between procedural justice and tax-compliance. For instance, Murphy et al. (2016) found that procedural fairness impacts on tax compliance behaviour through the mediating variable of "legitimacy" (operationalized in terms of an obligation to obey). Moreover, Faisal et al. (2017) demonstrated that perceptions of procedural justice increased tax compliance. In that study procedural justice was associated with increases in perceptions of trust and trust was found to affect tax compliance, findings congruent with those of Murphy (2004). In the context of police organisations, Haas et al. (2015) showed that organisational procedural justice and trust were positively associated with police officer compliance with organisational rules, a finding complementing studies in the taxation environment. Tyler (1997) compared perceptions of leader competence and perceptions of leader integrity (trust) on willingness to voluntarily accept decisions, discovering that while both competence and trust had a significant effect on the willingness to voluntarily accept decisions, the effect of trust was stronger than that of competence.

Some previously cited studies (see Hartner et al., 2008, Verboon and Goslinga, 2009) have demonstrated that procedural justice and trust had a stronger effect on compliant behaviours than distributive fairness. I now wish to focus on some studies that identified a relationship between distributive fairness and behaviour. In the organisational context, Kumar, Bakhshi and Rani (2009) have shown that distributive fairness and procedural fairness both had a significant effect on organisational commitment, with the stronger effect being demonstrated

by distributive fairness. Consistent with the foregoing study, Ybema, van der Meer and Leijten (2016) found that distributive justice of appreciation and procedural justice were associated with lower productivity loss and with lower sickness absence (with the former exerting a slightly stronger effect). However, no effect was found for distributive fairness of salary on lower productivity loss and sickness absence. Moreover, in the taxation context (and complementing the findings in organisational contexts), Hartner et al. (2011) demonstrated that perceptions of distributive fairness of EU transfer payments were linked with increases in both collective EU tax compliance and individual tax compliance. Turning to the final dimension of responsiveness, as previously noted, many studies have included elements of responsiveness (speed, promptness or timeliness) when measuring effectiveness and therefore it is not possible to disentangle speed from effectiveness in order to examine the effect of responsiveness on compliance. Drawing on the deterrence and rational choice theory, it can be argued that perceptions of MFSA promptness in exercising its functions may be associated with increased compliance and cooperation. However, a dearth of evidence exists regarding the effects on celerity of punishment (at least in criminology) and where evidence is found it is “modest at best” (Pratt and Turanovic, 2018:197).

Chapter 7 has sought to address the limited amount of research in the regulatory legitimacy literature by investigating whether legitimacy or deterrence factors are the most significant predictors of positive attitudes to compliance. It has done so by exploring the relationship between three newly developed legitimacy scales (rule of law, distributive fairness and responsiveness) that measure the BLDs that Maltese financial services operators make of the MFSA, deterrence variables and positive attitudes to compliance. This Chapter has also attempted to determine whether the influence of legitimacy is independent of obligation to obey the MFSA. Several important findings emerged from the analysis.

First, the data revealed that the composite measure of legitimacy and the dimension of the rule of law were stronger predictors of positive attitudes to compliance with MFSA rules and directives than were perceptions of deterrence, except in model 3, where obligation to obey had a stronger influence than the composite measure, possibly due to the low scores of distributive fairness and responsiveness. This suggests that operators are not only be “rational actors who weigh the benefits of non-compliance against the probability and costs of punishment” (Simpson, 2002:94) but are also “norm-users” (MacCormick, 2007:20). Tankebe (2014:238) commented that MacCormick’s observation about norm-users “has decisive consequences for police organisations because it suggests that while direct orders

from the officers will likely be obeyed due to fear of punishment, [compliance] ... will more readily be offered to police organisations whose authority has the moral assent of citizens". It is submitted that Tankebe's comment applies equally to financial regulators. It remains to be seen whether operators' positive attitudes to compliance translate into actual compliance with MFSA rules and cooperation with MFSA in accordance with Braithwaite's (2009, 2013) theory on social distancing as well as with empirical research (Braithwaite et al., 1994, Murphy et al., 2009). Future research ought to explore this relationship.

Second, the data showed that responsiveness had a negative influence on operators' attitudes towards deference, that is, when operators perceived the MFSA to be more responsive (fast-acting and efficient), they were less likely to display positive attitudes towards compliance. This finding is counterintuitive and I wish to suggest some reasons that may explain it by alluding to research examining the timing of punishment in behavioural literature, while bearing in mind both that the current study did not specifically measure the speed of punishment (and instead merely whether the MFSA is fast-acting in general), as well as the fact that in the studies to which I now refer, the sample consisted of children rather than adults. Indeed, studies among children have generally shown that punishment is more effective in achieving the desired behaviour when it is presented immediately rather than when it is delayed (Abramowitz and O'Leary, 1990; Arvey and Ivancevich, 1980; Walkers, Parke and Cane, 1965). However, this paper was a perceptual-based study. It might be argued that if perceptions that the MFSA is fast-acting increase, then what is being witnessed is an avoidance response, that is, participants expressing a desire not to comply, especially if they have never been punished, as was true with the vast majority of the participants in this study (Skinner, 1971).

Although legitimacy measures (namely the rule of law and the composite legitimacy scale) displayed stronger and more statistically significant effects on positive attitudes to compliance than did the deterrence variables, the latter factors were not irrelevant. While in all models the likelihood of apprehension has no effect on positive intentions to comply, chiming with Tyler and Blader's (2005) first study, in the models with the composite legitimacy scale, perceptions of the severity of punishment were associated with an increase in positive attitudes to compliance, a finding which contrasts with Tyler and Blader's (2005) second study. In general, the poor effects of risk of apprehension on positive attitudes to compliance conflicted with prior studies in the policing legitimacy literature that have found that risk of sanction increases compliance (Hough et al., 2013; Sunshine and Tyler, 2003;

Tyler and Jackson, 2014). Although attitudes to comply are not actions in the sense of behaviour and even though attitudes do not necessarily lead to compliant actions on the part of regulatees, it is arguable that these findings contradict the trend of empirical research in policing deterrence research which shows that it is the perceived certainty of apprehension rather than the perceived severity of punishment that has the stronger association with reduced offending (Paternoster, 2010; Apel and Nagin, 2011; Durlauf and Nagin, 2011; Nagin, 2013a; Nagin, 2013b; Nagin, Solow and Lum, 2015). I wish to offer some reasons why, in the Maltese sample, perceptions of the severity of punishment increased deferential attitudes towards the regulator, whereas perceptions of the likelihood of apprehension reduced them. Participants might have been answering the statement about the perceived severity of punishment by thinking about perceived informal sanctions such as shame. As Williams and Hawkins (1989) have argued, formal sanctions may be required to trigger informal sanction mechanisms. In terms of the MFSA Act, where the MFSA imposes a sanction or penalty on an operator, it is obliged to publish on its website the administrative measure it imposed as well as the operator's name. Shame is a potent weapon of informal social control, especially for financial services operators that rely on the trust and confidence of their customers for their survival (Braithwaite, 1993; Jaffer, Morris and Vines, 2014). This is particularly true in a small country like Malta where news, especially bad news, travels like wildfire. In the light of these points, it is arguable that operators' deferential attitudes to the MFSA increase as perceptions of the severity of punishment rise. Empirical research provides some support to this argument by showing that perceived informal sanctions have a greater impact on compliance than do perceptions of formal sanctions (Elis and Simpson, 1995; Fisse and Braithwaite, 1983; Hollinger and Clarke, 1982; Makkai and Braithwaite, 1994). Future research should distinguish between different types of perceived informal sanctions, while recognising that shaming can be both disintegrative and re-integrative (Murphy and Harris, 2007) and that perceptions of certainty of punishment can affect perceptions of informal sanctions (Welch et al., 2005). Why do perceptions of the likelihood of apprehension reduce deferential attitudes towards the MFSA? Operators are staffed by human beings who are likely to suffer from what Simon (1990) has described to as bounded rationality. Therefore, if there is a probability that an operator will be apprehended (which does not necessarily carry the consequences described above) even though it may eventually be punished (which does carry the consequences described above), then it is possible that the operator will try its utmost to avoid punishment, translating into attitudes of defiance. Another reason could be

that an operator who perceives an increased likelihood of being caught, may develop an attitude of animosity towards authority, resulting in defiance. In a similar way, if you are more likely to be caught by the police, it is more likely that you will express a desire of dislike towards the police and adopt a defiant stance. A final reason could be that because participants' attitudes to comply were already high, perceptions of the likelihood of apprehension had a defiance rather than a deterrent effect, consistent with Mohdali, Isa and Yusoff's (2014) study on tax compliance. Future research should address: (a) the impact that bounded rationality has on attitudes of defiance; (b) the extent to which perceptions of the likelihood of being caught affect defiance; and (c) the interaction between positive attitudes to compliance and perceptions of the likelihood of apprehension on behaviour.

Third, the data demonstrated that the composite legitimacy scale mediated the relationship between legitimacy and positive attitudes to compliance and that obligation to obey contained a large number of non-legitimacy issues, aside from deterrence factors. The data also showed that deterrence factors did not affect the influence of legitimacy and obligation to obey on operators' positive attitudes to compliance. Taken together these findings suggest that other factors may influence obligation to obey and positive attitudes to compliance. Drawing on theoretical and empirical literature that has hypothesized and identified a relationship between personal morality, low self-control, a desire for control and corporate or white-collar offending (see Blickle, Schlegel, Fassbender and Klein, 2006; Bottoms, 2019; Gottfredson and Hirschi, 1990; Nagin and Paternoster, 1994; Paternoster and Simpson, 1996; Piquero, 2012; Piquero, Schoepfer and Langton, 2010; Schoepfer, Piquero and Langton, 2014; Simpson, 2002; Simpson and Piquero, 2002) I posit that issues of personal morality, low self-control and a desire for control are factors that may affect an operator's feelings of obligation to obey, attitudes to comply and self-reported compliance. In the light of the above, I also suggest that future research in legitimacy and compliance (as well as cooperative actions) in the regulatory sphere should be incorporated in Wikström's Situational Action Theory (SAT) framework (Wikström et al., 2013).

Having discussed this study's main findings and conclusions I now turn to its limitations. I will begin with Chapter 5 which presented the findings derived from the interviews. This qualitative stage of the research suffers from a number of limitations that may limit the significance of the conclusions drawn from the data. I wish to highlight two limitations, one pertaining to sampling and the other to the conduct of the interviews.

The original intention was to draw a random sample of operators from the MFSA's Financial Services Register (FSR), which contains a list of all operators licensed by the MFSA. Although a "relatively rare" occurrence and a subject of considerable controversy in qualitative studies, random sampling would enable generalizations to be made from the sample to the populations of interest (Marshall, 1996; Morse, 1999; Onwuegbuzie and Leech, 2007:242; Polit and Beck, 2010). However, I had to abandon this plan in the initial stages of the qualitative phase following the money laundering and corruption allegations published by Daphne Caruana Galizia (DCG) concerning Pilatus Bank, a bank licensed by the MFSA. On 1 May 2017, the Maltese Prime Minister called a general election in response to the allegations published by DCG in April 2017. At that stage, I felt that the situation had reached a tipping point. The Pilatus Bank affair (roping in the MFSA) was exponentially politicized with Maltese tribal politics emerging in full swing (Cini, 2002). The media coverage on Pilatus Bank, and by implication the MFSA, was frenzied. I deemed it would be nearly impossible to access participants unless they were known at a personal and/or professional level by Caius and/or by myself. Owing to these developments, I considered it prudent to delay the interview stage until a month after the general election and to use non-probability sampling methods instead. The reasons underlying this change in strategy were as follows. I believed that if I were to continue the interviews during the period before and immediately after the election, the Pilatus Bank affair would overshadow the objective of the interviews. I suspected that my respondents would simply interpret the questions related to the MFSA in the light of the Pilatus Bank scandal. In addition, unlike Desmond (2004), who found that temporal closeness to politically sensitive events facilitated access, I felt that it would have proved more difficult to access participants both in the period before and after the election. Towards the end of June 2017 (around three weeks after the general election), I considered whether to commence random sampling. However, two further events occurred that again placed the MFSA under the spotlight, solidifying my decision to use non-probability sampling methods: (i) on 14 June 2017, DCG reported that the Chairman of the MFSA and the Chairman of Pilatus Bank were travelling together on a flight to Malta from Frankfurt; and (ii) on 22 June 2017, DCG stated that inspectors from the Banking Supervision Unit had refused to conduct an on-site inspection of Pilatus Bank. Had random sampling been employed, I would have been more confident in generalizing the themes to the whole of the financial services industry.

The second limitation is related to the conduct of the interviews. A number of participants displayed dominance by providing long answers, by not answering the questions posed to them and by taking charge of the interviews, rendering the collection of the necessary data a cumbersome process. Rather than interrupting these interviewees to try and steer them back on course, I adopted a deferential attitude in the form of Goffman's (1959) avoidance and presentational rituals along with a doxastic interview style (Brinkmann, 2007), thus allowing the interviewees to talk while I listened carefully, as Mayo (1949) suggested, before re-asking the relevant question again in a polite manner, as Thomas (1993) advised. In three cases, I also organised another meeting. These rituals of deference (Goffman, 1959) were employed for four interconnected reasons. First, the interviewees who displayed such a level of dominance were all at least 20 years my senior, and in Malta an expectation exists that young individuals respect their elders by allowing them to speak freely, without interruption. Second, these interviewees were, in Hunter's terms (1993:50), "knowledgeable informants" and I fulfilled the role of a student by listening in accordance with the maxim *above majori discit arare minor* (a young ox learns to plough from an older one) (Gray, 2006a:21). Admittedly, I had thought of informing the respondents at the beginning of the interviews that "I am interested in everything you have to say, and I wish to go over all of the questions so please be concise and brief in your responses" in order to establish some level of dominance and to prevent the interviewees from giving long responses. When I mentioned this to Caius, the primary referral source, he explained that if the participant is giving you his or her time, it would be rude to ask them to be concise. Third, interrupting the interviewees would have been regarded as impolite behaviour, jeopardising our rapport. Fourth, such behaviour on my part would have caused the referral source as well as myself reputational damage. Malta is a small country and news of disrepute travels fast. This would have impeded my chances of collecting further data.

The results and conclusions of Chapter 6 are subject to a number of limitations. The first limitation is related to scale development. When developing dimensions and constructing scales, researchers have often consulted experts and stakeholders (Liebling, 2004), as guidelines on scale development tend to advocate a review of the pool of items by experts in the field (Cabrera-Nguyen, 2010; Worthington and Whittaker, 2006). Although I piloted the survey among a small sample of operators, I did not discuss the questionnaire items with them. This exercise might have helped to clarify and amend the initial concepts and reduce the number of items. The second limitation relates to representativeness of the

sample of 226 operators. Representativeness is important to establish because this affects the internal validity of the legitimacy measures discussed above. It must be acknowledged that it is difficult to determine the sample's representativeness. This is for several reasons. First, and as noted in section 4.2.3 above, the population list from which the sample was drawn excludes certain operators, namely those licensed in terms of the Securitisation Act and those who passport their rights into Malta. Second, the population list was from which the sample was drawn would have changed during data collection. The third set of limitations pertains to the CFA analysis. One, the quantitative stage of the research had a low response rate and thus a small sample size ($n=226$ with missing cases and $n=181$ with no missing cases). The CFA literature recommends a range of thresholds for the minimum sample size to obtain factor solutions that closely correspond to population factors (MacCallum et al., 1999). Although this research satisfied Kline's (1979) and Gorsuch's (1983) recommended minimum sample of 100 as well as Guildford's (1954) proposed 200 (which according to Comrey and Lee (1992) is fair), the sample size fell below Cattell's (1978) suggestion of 250 and Comrey and Lee's (1992) recommendation for 500 or more. Research conducted by MacCallum et al. (1999) has shown that these rules of thumb lack validity. Two, and flowing from the first limitation, Nunnally (1967) has suggested a minimum of 10 cases per variable. I conducted the five-factor CFA analysis on 34 variables, necessitating a sample size of 340. The sample size used in the five-factor analysis fell short of this threshold. The four-factor CFA analysis used 23 variables and the three-factor CFA analysis used 19 variables, requiring sample sizes of 230 and 190, respectively. While the three-factor model satisfied the sample size requirements, the four-factor model fell short of this threshold by four participants. Future research should test these models with larger sample sizes and compare the differences while keeping in mind that Wolf et al. (2013) have suggested that a one-size-fits-all approach does not necessarily work and that the models with more indicators per factor require fewer cases. Three, I conducted the CFA analysis on the EFA data set, but research suggests that in order to confirm the results of an EFA through a CFA, a separate sample should be used.

The results and conclusions of Chapter 7 are not without shortcomings. First, the cross-sectional research design precludes causal conclusions being made between legitimacy, deterrence factors, obligation to obey and attitudes to compliance. Future research should therefore employ longitudinal designs to examine whether changes in legitimacy and deterrence affect obligation to obey and attitudes to compliance over time. It may well be the case, as hypothesized by Braithwaite and Reinhart (2013), that perceived deterrence leads to

different motivational postures or alternatively that motivational postures precede perceptions of legitimacy. Second, this study did not take into account threshold or tipping point effects of the independent variables in this study (Liebling and Ludlow, 2017). High or low thresholds of the legitimacy scales could have different effects on positive attitudes to compliance. For instance, it could be the case that no effect was witnessed for distributive fairness despite the mean score being quite low (2.51) because it did not pass a certain threshold. Third, the scale measuring intentions to comply was adapted from Braithwaite (2009, 2013). In this sense, the outcome measures in this study suffer from the same methodological limitation identified in the literature review section in relation to existing conceptualizations and measurements of legitimacy, identifying *a priori* the dimensions of compliance. Future research should be conducted to explore what occurs when operators' BLDs are met or remain unfulfilled. Fourth, and as previously noted, attitudes to compliance do not necessarily translate into actual compliance; rather, they reflect an attitude or a posture to compliance that may or may not lead to actual behaviour (Braithwaite, 2009, 2017). Future research should take into account Braithwaite's motivational postures and self-reported measures while acknowledging that there are different forms of compliance and that these may vary according to context (McBarnet, 2001). The fifth limitation pertains to sampling. In this research, I sought to approach one individual per operator who had authority from the board of directors (so it can be said that such individual was representing the company) and who was in direct and regular contact with the MFSA. The sample consisted of individuals who occupied key supervisory and managerial roles: directors ($n = 55$), chief executive officers or managing directors ($n = 35$), compliance officers and money laundering reporting officers ($n = 36$), chairmen ($n = 7$), chief operations officers ($n = 5$), chief financial officers ($n = 2$), company secretaries ($n = 2$) and chief investment officers ($n = 1$). The sample also consisted of partners, managing partners and senior associates of firms offering legal, auditing or accounting services ($n = 50$), associates of such firms ($n = 2$), lawyers ($n = 12$), professional service advisors ($n = 11$) and sole practitioners ($n = 4$).⁴² As can be seen, most of the sample consisted of individuals who occupied high positions in financial services organisations and not individuals at lower levels. Although this study did not measure self-reported acts of compliance or cooperation (which future research should do), but attitudes of deference instead, it is worth noting that corporate offending or breaches of financial services regulation can range from simply failing to submit a document to the MFSA on time to

⁴² This number does not add up to 226 because some participants did not complete the "role section" in the survey.

complex fraud. These acts of omission or commission may be performed by individuals at all levels of a financial services organisation, whether acting as a lone wolf or in collusion with other employees. In view of the social information processing theory (Salancik and Pfeffer, 1978) and the social learning theory (Bandura and Walters, 1977), it may be hypothesized that the attitudes of higher-level management can be assimilated and adopted by mid-level and lower-level employees (who are regularly responsible for the firm's regulatory compliance). Given these hypothetical scenarios, future research should sample more than one participant from each organisation and from different levels of the organisation in question. Six, the regression analysis only focused on impact of meso-level perceptions of regulatory legitimacy (operators) on positive attitudes to compliance and did not examine the effect of macro-level variables on positive attitudes to compliance. Regulatees operate in a regulatory and political environment which encompasses other actors such as the state. Research has also shown that variations in levels of state legitimacy are associated with variations in crime rates (Eisner and Nivette, 2013). Changes in political legitimacy are therefore crucial to consider especially given the political and regulatory context (see Chapter 3) within which this research took place. Future research ought to examine the connection between this state legitimacy and attitudes to compliance. The final limitation relates to reliability. As shown in section 7.1. above, while the combined legitimacy scale and the dimension of the rule of law displayed a *very high-level* of reliability with the dimensions of distributive fairness and obligation demonstrating *high levels* of internal consistency; the dimensions of responsiveness and positive attitudes to compliance displayed an *acceptable level* of reliability. This could indicate that the responsiveness and the positive attitude to compliance scales were not consistently measuring the same concept. Future research should seek to use a larger sample size to mitigate this limitation.

Taking into account these limitations, it would be premature for the MFSA to adopt these measures to explore the relationship between legitimacy, deterrence and obligation to obey and positive attitudes to compliance. Nonetheless, it is still essential that the MFSA act in accordance with the rule of law as measured in this study, as otherwise a ripple effect could follow in the years to come. A strong Maltese financial services sector is a *sine qua non* for a well-functioning economy. The foundation for a robust financial services sector in turn rests on an MFSA that functions in accordance with the rule of law. If the MFSA fails to abide by the rule of law, by failing to act lawfully and impartially, by being untrustworthy and by employing incompetent individuals, Malta risks becoming a haven for financial crime.

This could have a number of consequences all of which would affect the Maltese economy. Financial crime could lead to bank closures (as evidenced in the case of Pilatus bank and Satabank) and blacklisting by international organisations such as MoneyVal. This would significantly damage Malta's reputation as a financial centre, in turn further attracting operators with a criminal intent to exploit the Maltese financial services sector and dissuading honest operators from functioning in Malta. Since Malta is an EU member state and Maltese licensed operators can passport to other EU jurisdictions, any negative effect on Malta's economy and reputation could also spill over to other EU states. It is therefore necessary for the MFSA to weaponize the rule of law in order to robustly combat financial crime.

In the remaining paragraphs I wish to suggest three areas for future research which would address the some of the limitations of this research not tackled above.

The first area of future research lies in scale development. In order to improve the legitimacy scales, focus groups or workshops ought to be conducted with financial services participants to refine the regulatory legitimacy survey. The legitimacy survey should be distributed not just to one individual occupying a top-level management position within each organisation but also to other members of top, middle and lower level management as these individuals also interact with the MFSA and are essential cogs in the machinery required for the financial organisation to operate. A wider distribution would also increase the response rate. In respect of the outcome measures, I adopted a normative approach to measuring operators' motivational postures. Although the qualitative stage of the research had questions that asked about what occurs when the MFSA fails to meet its expectations, not enough data was available to develop themes that could be utilized to develop survey items that measure legitimacy outcomes. Future research should specifically address this limitation.

This research only explored the legitimacy of the MFSA as perceived by operators. Similar research should be conducted with other audiences, such as the general public and EU supranational regulators. In addition, there are other regulators that are important actors within the Maltese financial services industry – primarily the EU supranational regulators and the local FIAU. The same research design ought to be employed to discover what operators expect from the EU supranational regulators and the FIAU. Conducting such research would set the stage for an EU-wide regulatory legitimacy survey.

The second area of future research lies in employing a framework to understanding the rule-following (or rule-breaking behaviour) of licensed operators, incorporating legitimacy and deterrence factors. As noted in Chapter 7, obligation to obey contained a large

amount of non-legitimacy issues and that paper did not include measures of well-known correlates of behaviour, such as self-control and personal morality. One such framework is Paternoster and Simpson's (1993) rational choice model of corporate crime. The main issue with this model is that it is premised on the rational-choice theory, yet as demonstrated in the third paper, legitimacy considerations are important factors that impact attitudes to compliance. I believe that Wikström's SAT can, with some refinements, provide a framework within which to examine how legitimacy affects behaviour. Wikström's SAT (Wikström et al, 2013) sees crime as a moral action that is the outcome of a perception-choice process that is initiated and guided by the causal interaction between an individual's crime propensity (an individual's personal morality and self-control) and a particular criminogenic setting. If individuals do not regard rule-breaking as an alternate route to a particular temptation or provocation, no rule-breaking will result. However, if rule-breaking is seen as an alternative, the SAT hypothesises two different routes: one in which the actor habitually perceives crime as an action and therefore habitually acts in that manner; the other in which the actor sees a number of different alternatives and engages in a process of rational deliberation which is in turn affected by controls such as the ability to exercise self-control, personal morality and perceptions of deterrence. Two recent studies applied the precepts of SAT to explain white-collar offending. Jordanoska (2018:1445) through semi-structured interviews with white-collar prisoners concluded that "its constructs can be fruitfully deployed in explaining white-collar crime" but "only to a moderate extent". Another study showed more promising results. Craig (2019) using a convenience sample of criminology students found that individuals with a high level of morality and with a low level of self-control displayed reduced intentions to offend and increased intentions to offend respectively. Craig's study also showed that morality moderates the effect of low self-control on white-collar offending. None of these studies included legitimacy variables. Perceptions of legitimacy are relevant at different stages of the SAT: (i) the temptation/provocation stage; (ii) the moral filter stage; and (iii) the control stage. Future research should incorporate measures of legitimacy at these three stages while extending the SAT to incorporate not only rule-breaking behaviour but also rule-following behaviour.

The third area of future research lies in understanding the origin of operators' perceptions of MFSA legitimacy. Preliminary evidence from the qualitative stage of the research shows that operators' expectations of the MFSA are largely consistent with what Boulding (1967:299) referred to as "internal legitimacy". More interviews should be

conducted to examine how operators self-justify their authority and how this relates to operators' perceptions of regulatory legitimacy.

Despite this dissertation's methodological limitations, this study hopefully sets the stage for future legitimacy research in Malta as well as in the EU.

References

- Abramowitz, A. J., & O'Leary, S. G. (1990). Effectiveness of delayed punishment in an applied setting. *Behavior Therapy*, 21(2), 231-239.
- Adams, J. S. (1965). "Inequity in social exchange" in Berkowitz, L. (Ed.), *Advances in experimental social psychology* (Vol. 2). New York: Academic Press (267-299).
- Akinlabi, O. M. (2017). Young people, procedural justice and police legitimacy in Nigeria. *Policing and society*, 27(4), 419-438.
- Akinlabi, O. M., & Murphy, K. (2018). Dull compulsion or perceived legitimacy? Assessing why people comply with the law in Nigeria. *Police Practice and Research*, 19(2), 186-201.
- Alexiou, K., & Wiggins, J. (2018). Measuring individual legitimacy perceptions: Scale development and validation. *Strategic Organization*, 17(4), 470-496
- Alvesalo-Kuusi, A., & Whyte, D. (2018). Researching the powerful: A call for the reconstruction of research ethics. *Sociological Research Online*, 23(1), 136-152.
- A. Menarini Diagnostics S.R.L. v. Italy - 43509/08 Judgment 27.9.2011.
- Amirkhanyan, A. A., Meier, K. J., & O'Toole Jr, L. J. (2017). Managing in the regulatory thicket: Regulation legitimacy and expertise. *Public administration review*, 77(3), 381-394.
- Anthony, A. K., & Danaher, W. F. (2015). Rules of the road: doing fieldwork and negotiating interactions with hesitant public figures. *Qualitative Research*, 16(4), 392-410.
- Apel, R. and Nagin, D. (2011). "General Deterrence: A Review of Recent Evidence." In Wilson, J. Q. and Petersilia, J. (Eds.), *Crime and Public Policy* (pp. 411 – 436). New York, NY: Oxford University Press.
- Arbuckle, J.L., (1997). *Amos users' guide: Version 3.6*. Chicago: SmallWaters corporation.
- Ariel, B. (2012). Deterrence and moral persuasion effects on corporate tax compliance: findings from a randomized controlled trial. *Criminology*, 50(1), 27-69.
- Armour, J., Awrey, D., Davies, P., Enriques, L., Gordon, J., Mayer, C., & Payne, J. (2016). *Principles of financial regulation*. Oxford, UK: Oxford University Press.
- Arvey, R. D., & Ivancevich, J. M. (1980). Punishment in organizations: A review, propositions, and research suggestions. *Academy of Management Review*, 5(1), 123-132.
- Ayres, I. and Braithwaite, J. (1992). *Responsive Regulation: Transcending the deregulation debate*. New York, NY; Oxford University Press.
- Bachman, R. and Schutt, R. K. (2011) *The Practice of Research in Criminology and Criminal Justice*, Thousand Oaks, CA: Sage Publications Inc.

- Bagozzi, R.P. (2010). Structural equation models are modelling tools with many ambiguities: Comments acknowledging the need for caution and humility in their use. *Journal of Consumer Psychology*, 20(2), 208-214.
- Bagozzi, R.P. and Yi, Y. (1988). On the evaluation of structural equation models. *Journal of the academy of marketing science*, 16(1), 74-94.
- Bagozzi, R.P. and Yi, Y. (2012). Specification, evaluation, and interpretation of structural equation models. *Journal of the academy of marketing science*, 40(1), 8-34.
- Baker, T., Pickett, J. T., Amin, D. M., Golden, K., Dhungana, K., Gertz, M., & Bedard, L. (2015). Shared race/ethnicity, court procedural justice, and self-regulating beliefs: A study of female offenders. *Law & Society Review*, 49(2), 433-466.
- Baldwin, R. (1995). *Rules and Government*. Oxford, UK: Clarendon University Press.
- Baldwin, R. (1996). "Regulatory Legitimacy in the European Context: the British Health and Safety and Executive" in Richardson, J. (Ed.) *Regulating Europe*. Abington, Oxford: Routledge (83-105).
- Bandura, A., & Walters, R. H. (1977). *Social learning theory* (Vol. 1). Englewood Cliffs, NJ: Prentice Hall.
- Barak, G. (2013). The Flickering Desires for White-Collar Crime Studies in the Post-Financial Crisis: Will They Ever Shine Brightly? *Western Criminology Review*, 14(2), 61-71.
- Barbalet, J. (2009). A characterization of trust, and its consequences. *Theory and society*, 38(4), 367-382.
- Barrett-Lennard, G.T., 2015. *The relationship inventory: A complete resource and guide*. Chichester, UK: John Wiley & Sons.
- Baumrind, D., (1991a). The influence of parenting style on adolescent competence and substance use. *The Journal of Early Adolescence*, 11(1), pp.56-95.
- Baumrind, D. (1991b). "Parenting styles and adolescent development" in Lerner, R. M., Peterson, A. C., & Brooks-Gunn J. (Eds.), *The Encyclopedia of Adolescence*. New York, NY: Garland.
- Becker, H. S. (1967). Whose side are we on? *Social problems*, 14(3), 239-247.
- Beetham, D. (1991). *The legitimization of power*. London, U.K: Macmillan.
- Beetham, D. (2013). "Revisiting legitimacy, twenty years on" in Tankebe, J. and Liebling, A. (Eds.) *Legitimacy and Criminal Justice*. New York, NY: Oxford University Press (pp. 326-352).
- Beetham, D., & Lord, C. (1998). *Legitimacy and the EU* (Political dynamics of the EU series). Harlow: Addison Wesley Longman.

- Beijersbergen, K. A., Dirkzwager, A. J., Eichelsheim, V. I., Van der Laan, P. H., & Nieuwebeerta, P. (2015). Procedural justice, anger, and prisoners' misconduct: A longitudinal study. *Criminal Justice and Behavior*, 42(2), 196-218.
- Bentler, P.M., (1990). Comparative fit indexes in structural models. *Psychological bulletin*, 107(2), 238-246.
- Bentler, P.M. (1992). On the fit of models to covariances and methodology to the Bulletin. *Psychological bulletin*, 112(3), 400.
- Besnoy, K.D., Dantzler, J., Besnoy, L.R. and Byrne, C., (2016). Using exploratory and confirmatory factor analysis to measure construct validity of the Traits, Aptitudes, and Behaviors Scale (TABS). *Journal for the Education of the Gifted*, 39(1), 3-22.
- Bingham, T. (2010). *The rule of law*. London, UK: Penguin.
- Bitektine, A., & Haack, P. (2015). The “macro” and the “micro” of legitimacy: Toward a multilevel theory of the legitimacy process. *Academy of Management Review*, 40(1), 49-75.
- Black, J. (2008). Constructing and contesting legitimacy and accountability in polycentric regulatory regimes. *Regulation & governance*, 2(2), 137-164.
- Blickle, G., Schlegel, A., Fassbender, P., & Klein, U. (2006). Some personality correlates of business white-collar crime. *Applied Psychology*, 55(2), 220-233.
- Blumer, H. (1954). What is wrong with social theory? *American sociological review*, 19(1), 3-10.
- Boissevain, J., (1974). *Friends of friends: Networks, manipulators and coalitions*. UK: Basil Blackwell.
- Boulding, K. E. (1967). The legitimacy of economics. *Economic Inquiry*, 5(4), 299-307.
- Boulding, K. E. (1969). *The legitimacy of central banks*. Board of Governors of the Federal Reserve System.
- Bottoms, A. E. (2002). “Morality, crime, compliance and public policy” in Tonry, M. (ed.), *Ideology, Crime and Criminal Justice*, London, UK: Willan Publishing.
- Bottoms, A. E. (2008). “The relationship between theory and empirical observations in criminology” in King, R., & Wincup, E. (Eds.) *Doing research on crime and justice*. Oxford: Oxford University Press.
- Bottoms, A. (2019). “Understanding Compliance with Laws and Regulations: A Mechanism-Based Approach” in Krambia-Kapardis, M. (Ed.) *Financial Compliance Issues, Concerns and Future Directions*, Cham, Switzerland: Springer Nature Switzerland AG (1-47).
- Bottoms, A. E., & Tankebe, J. (2012). Beyond procedural justice: A dialogic approach to legitimacy in criminal justice. *J. Crim. L. & Criminology*, 102(1), 119-170.

Bottoms, A. E. & Tankebe, J. (2017). "Police Legitimacy and the Authority of the State" in Du Bois-Pedain, A., Ulväng, M., & Asp, P. (Eds.). *Criminal Law and the Authority of the State*. Oxford: Bloomsbury Publishing (47-88).

Bottoms, A. E. & Tankebe, J. (2020). Procedural Justice, Legitimacy and Social Contexts. (Unpublished manuscript).

Bradford, B. (2014). Policing and social identity: Procedural justice, inclusion and cooperation between police and public. *Policing and society*, 24(1), 22-43.

Bradford, B., Hohl, K., Jackson, J., & MacQueen, S. (2015). Obeying the rules of the road: Procedural justice, social identity, and normative compliance. *Journal of contemporary criminal justice*, 31(2), 171-191.

Braithwaite, J. (1989). *Crime, shame and reintegration*. New York, NY: Cambridge University Press.

Braithwaite, J. (1993). Shame and modernity. *The British Journal of Criminology*, 33(1), 1-18.

Braithwaite, J. (2005). *Markets in vice, markets in virtue*. UK: Oxford University Press, Inc.

Braithwaite, J. (2011) "The Regulatory State?" in Goodin, R. E. (ed.) *The Oxford Handbook of Political Science*, Oxford, UK; Oxford University Press (218-325).

Braithwaite, J., & Fisse, B. (1983). Asbestos and health: A case of informal social control. *Australian & New Zealand Journal of Criminology*, 16(2), 67-80.

Braithwaite, J., & Geis, G. (1982). On theory and action for corporate crime control. *Crime & Delinquency*, 28(2), 292-314.

Braithwaite, J., & Makkai, T. (1991). Testing an expected utility model of corporate deterrence. *Law & Soc'y Rev.*, 25(1), 7-40.

Braithwaite, V. (2002). "Dancing with Tax Authorities: Motivational Postures and Non-Compliant Actions" in Braithwaite V. (Ed.) *Taxing Democracy*, England: Ashgate Publishing Limited (15-40) Retrieved from <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.127.1075&rep=rep1&type=pdf#page=11>

Braithwaite, V. A. (2009). *Defiance in taxation and governance: Resisting and dismissing authority in a democracy*. Cheltenham, UK: Edward Elgar Publishing.

Braithwaite, V. A. (2013). "Resistant and Dismissive Defiance Towards Tax Authorities" in Crawford, A. & Hucklesby, A. (Eds.) *Legitimacy and Compliance in Criminal Justice*. Oxford: Routledge.

Braithwaite, V. A. (2017). "Closing the gap between regulation and the community" in Drahos, P. (Ed.) *Regulatory Theory Foundations and Applications*. Australia: ANU Press. Retrieved from <https://press-files.anu.edu.au/downloads/press/n2304/pdf/book.pdf>.

Braithwaite, V., Murphy, K., & Reinhart, M. (2007). Taxation threat, motivational postures, and responsive regulation. *Law & Policy*, 29(1), 137-158.

Braithwaite, V., & Reinhart, M. (2013). Deterrence, coping styles and defiance. *FinanzArchiv: Public Finance Analysis*, 69(4), 439-468.

Brinkmann, S. (2007). Could interviews be epistemic? An alternative to qualitative opinion polling. *Qualitative inquiry*, 13(8), 1116-1138.

Brinkmann, S., & Kvale, S. (2005). Confronting the ethics of qualitative research. *Journal of constructivist psychology*, 18(2), 157-181.

Brown, T. A. (2015). *Confirmatory factor analysis for applied research*. New York, NY: Guilford Publications.

Browne, M.W. and Cudeck, R. (1993). Alternative ways of assessing model fit. *Sage focus editions*, 154, 136-136.

Brown, S. E., Esbensen, F., & Geis, G. (2010). *Criminology: Explaining Crime and its Context*. New Providence, NJ: Anderson Publishing.

Bryman, A., 2007. Effective leadership in higher education: A literature review. *Studies in higher education*, 32(6), pp.693-710.

Byrne, B.M. (1998). *Structural Equation Modeling with LISREL, PRELIS and SIMPLIS: Basic Concepts, Applications and Programming*. Mahwah, New Jersey: Lawrence Erlbaum Associates.

Buchanan, A. (2002). Political legitimacy and democracy. *Ethics*, 112(4), 689-719.

Buchanan, D., & Boddy, D. & McCalman (1988), Getting in, getting on, getting out and getting back. *Doing research in organisations*, 53-67.

Bushe, G. R. (1999). Advances in appreciative inquiry as an organization development intervention. *Organization Development Journal*, 17(2), 61-68.

Bushe, G. (2007). Appreciative inquiry is not about the positive. *OD practitioner*, 39(4), 33-38.

Cabrera-Nguyen, P. (2010). Author guidelines for reporting scale development and validation results in the Journal of the Society for Social Work and Research. *Journal of the Society for Social Work and Research*, 1(2), 99-103.

Caldeira, G. A., & Gibson, J. L. (1995). The legitimacy of the Court of Justice in the European Union: Models of institutional support. *American Political Science Review*, 89(2), 356-376.

Carrabine, E. (2005). Prison riots, social order and the problem of legitimacy. *British Journal of Criminology*, 45(6), 896-913.

Cattell, R. B. (1978). The scientific use of factor analysis in behavioral and life sciences. New York: Plenum.

Cini, M. (2002). A divided nation: Polarization and the two-party system in Malta. *South European Society & Politics*, 7(1), 6-23.

Clayton, N. (2010). Many hands make light work: The tripartite arrangement as part of the legislative reforms to banking legislation in the UK - a spectrum of views from a spectrum of institutions. *Law and Financial Markets Review*, 4(4), 366-393.

Cochrane, A. (1998). Illusions of power: interviewing local elites. *Environment and Planning A*, 30(12), 2121-2132.

Code of Organisation and Civil Procedure (Chapter 12 of the Laws of Malta)
<http://www.justiceservices.gov.mt/downloaddocument.aspx?app=lom&itemid=8577&l=1>.

Coicaud, J. M. (2002). *Legitimacy and politics: a contribution to the study of political right and political responsibility*. Cambridge: Cambridge University Press.

Cohen, L., & Holliday, M. (1982). *Statistics for social scientists: an introductory text with computer programs in basic*. London: Harper and Row.

Companies Act Chapter 386 of the Laws of Malta.

Comrey, A.L. and Lee, H.B. (1992) A first course in factor analysis (2nd edition). Hillsdale, NJ: Lawrence Erlbaum Associates.

Conti, J. A., & O'Neil, M. (2007). Studying power: Qualitative methods and the global elite. *Qualitative Research*, 7(1), 63-82.

Craig, J. M. (2019). Extending Situational Action Theory to White-Collar Crime. *Deviant Behavior*, 40(2), 171-186.

Crash course; the origins of the financial crisis. (2013, Sep 07). *The Economist*, 408, 74. Retrieved from <https://ezp.lib.cam.ac.uk/login?url=https://search-proquest-com.ezp.lib.cam.ac.uk/docview/1430900209?accountid=9851>.

Crewe, B., (2011). Depth, weight, tightness: Revisiting the pains of imprisonment. *Punishment & Society*, 13(5), 509-529.

Criminal Code (Chapter 9 of the Laws of Malta)
<http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8574>.

Czapska, J., Radomska, E., & Wójcik, D. (2015). Legitymizacja policji w Polsce na tle europejskich badań empirycznych. *Archiwum Kryminologii*, 37, 71-100.

Dasgupta, P. (1988) "Trust as a Commodity", in Gambetta D. (Ed.), *Trust: Making and Breaking Cooperative Relations*. Oxford: Basil Blackwell (49-72)

Davies, P. L. (2008). *Gower & Davies: the principles of modern company law* (No. 8th). Sweet & Maxwell.

Deephouse, D. L. (1996). Does isomorphism legitimate? *Academy of management journal*, 39(4), 1024-1039.

Deephouse, D. L., & Carter, S. M. (2005). An examination of differences between organizational legitimacy and organizational reputation. *Journal of management Studies*, 42(2), 329-360.

Deephouse, D. L., & Suchman, M. (2008). "Legitimacy in organizational institutionalism" in Greenwood, R., Oliver, C., Sahlin, K., and Suddaby, R. (ed.) *The Sage handbook of organizational institutionalism*. London, UK: Sage Publications Ltd. (pp. 49-77).

Delaney, K. J. (2007). Methodological dilemmas and opportunities in interviewing organizational elites. *Sociology Compass*, 1(1), 208-221.

Del Guercio, D., Odders-White, E. R., & Ready, M. J. (2013). *The effect of SEC enforcement intensity on illegal insider trading*. Working Paper, University of Wisconsin at Madison. Retrieved from https://hosted.smith.queensu.ca/Faculty/fmoneta/Seminar/2012_2013/ddg-eow-mjr_20130329.pdf.

Demir, M., Apel, R., Braga, A. A., Brunson, R. K., & Ariel, B. (2018). Body worn cameras, procedural justice, and police legitimacy: a controlled experimental evaluation of traffic stops. *Justice quarterly*, 1-32.

Department of Justice. (2018, March 20). *Iranian National Arrested For Scheme To Evade U.S. Economic Sanctions By Illicitly Sending More Than \$115 Million From Venezuela Through The U.S. Financial System* [Press Release]. Retrieved from <https://www.justice.gov/usao-sdny/pr/iranian-national-arrested-scheme-evade-us-economic-sanctions-illicitly-sending-more-115>.

Desmond, M. (2004). Methodological challenges posed in studying an elite in the field. *Area*, 36(3), 262-269.

Dexter, L. (1970). *Elite and specialized interviewing*. Evanston, IL: Northwestern University Press.

Dexter, L. A. (2006). *Elite and specialized interviewing*. Ecpr Press.

Diamantopoulos, A. and Siguaw, J.A. (2000), *Introducing LISREL*. London: Sage Publications.

Dicey, A.V., (2013). *The law of the constitution* (Vol. 1). Oxford: OUP.

Díez-Martín, F., Prado-Roman, C., & Blanco-González, A. (2013). Beyond legitimacy: legitimacy types and organizational success. *Management Decision*, 51(10), 1954-1969.

Doane, D. (2012, July 5). Libor: what about the regulators? *NewStatesman.com*, Retrieved from <https://www.newstatesman.com/blogs/business/2012/07/libor-what-about-regulators>

Doody, O., & Noonan, M. (2013). Preparing and conducting interviews to collect data. *Nurse researcher*, 20(5).

Dormann, C.F., Elith, J., Bacher, S., Buchmann, C., Carl, G., Carré, G., Marquéz, J.R.G., Gruber, B., Lafourcade, B., Leitão, P.J. and Münkemüller, T., (2013). Collinearity: a review of methods to deal with it and a simulation study evaluating their performance. *Ecography*, 36(1), 27-46.

Dowling, J., & Pfeffer, J. (1975). Organizational Legitimacy: Social Values and Organizational Behavior. *The Pacific Sociological Review*, 18(1), 122-136.

Durlauf, S. N., & Nagin, D. S. (2011). Imprisonment and crime: Can both be reduced? *Criminology & Public Policy*, 10(1), 13-54.

Easton, D. (1975). A re-assessment of the concept of political support. *British journal of political science*, 5(4), 435-457.

Easton, D. (1979). *A systems Analysis of Political Life*. Chicago, IL: University of Chicago Press.

Eisner, M. and Nivette, A. (2013) "Does Low Legitimacy Cause Crime? A Review of the Evidence" in Tankebe, J. and Liebling, A. (eds.) *Legitimacy and Criminal Justice An International Exploration*. New York, NY: Oxford University Press (pp. 308-325).

Elis, L. A., & Simpson, S. S. (1995). Informal sanction threats and corporate crime: Additive versus multiplicative models. *Journal of Research in Crime and Delinquency*, 32(4), 399-424.

Elliott, I., Thomas, S. D., & Ogloff, J. R. (2011). Procedural justice in contacts with the police: Testing a relational model of authority in a mixed methods study. *Psychology, Public Policy, and Law*, 17(4), 592.

Elsbach, K. D. (1994). Managing organizational legitimacy in the California cattle industry: The construction and effectiveness of verbal accounts. *Administrative science quarterly*, 39(1), 57-88.

Elwood, S. A., & Martin, D. G. (2000). "Placing" interviews: location and scales of power in qualitative research. *The professional geographer*, 52(4), 649-657.

Empson, L. (2017). Elite interviewing in professional organizations. *Journal of Professions and Organization*, 5(1), 58-69.

Europe in the EU. (n.d.).

Retrieved from https://europa.eu/european-union/about-eu/figures/living_en#tab-2-0.

European Banking Authority (2018, July 1). EBA issues recommendation to the Maltese Financial Intelligence Analysis Unit in relation to its supervision of Pilatus Bank. Retrieved from <https://eba.europa.eu/-/eba-issues-recommendation-to-the-maltese-financial-intelligence-analysis-unit-in-relation-to-its-supervision-of-pilatus-bank>.

Ewick, P., & Silbey, S. S. (1998). *The common place of law: Stories from everyday life*. University of Chicago Press.

Farrington, D. P. (1994). Childhood, adolescent, and adult features of violent males. In *Aggressive behavior* (pp. 215-240). Springer, Boston, MA.

Faizal, S. M., Palil, M. R., Maelah, R., & Ramli, R. (2017). Perception on justice, trust and tax compliance behavior in Malaysia. *Kasetsart Journal of Social Sciences*, 38(3), 226-232.

Feldman, Y., & Tyler, T. R. (2012). Mandated justice: The potential promise and possible pitfalls of mandating procedural justice in the workplace. *Regulation & Governance*, 6(1), 46-65.

Field, A., Miles, J. and Field, Z. (2014). *Discovering statistics using R* (reprint).

Fisse, B., & Braithwaite, J. (1983). *The impact of publicity on corporate offenders*. Albany: SUNY Press.

Foreman, P., & Whetten, D. A. (2002). Members' identification with multiple-identity organizations. *Organization Science*, 13(6), 618-635.

Fornell, C., & Larcker, D. (1981). Structural equation modeling and regression: guidelines for research practice. *Journal of Marketing Research*, 18(1), 39-50.

Francis, J. J., Johnston, M., Robertson, C., Glidewell, L., Entwistle, V., Eccles, M. P., & Grimshaw, J. M. (2010). What is an adequate sample size? Operationalising data saturation for theory-based interview studies. *Psychology and Health*, 25(10), 1229-1245.

Froschauer, K. and Wong, L.L. (2012) "Studying immigrant entrepreneurs: from ordinary to big players in the transnational capitalist class", in Aguiar, L. L. M. and Schneider, C. J. (eds), *Researching Amongst Elites: Challenges and Opportunities in Studying Up*. Farnham: Ashgate (150–78).

Gamson, J. (1995). "Stopping the spin and becoming a prop: Field work on Hollywood elites". In Hertz, R. & Imber, J. B. (Eds.), *Studying elites using qualitative methods* (pp. 83-93). Thousand Oaks, CA: SAGE.

Garson, D. G. (2013). *Factor Analysis*. Asheboro: Statistical Publishing Associates.

Gau, J. M. (2011). The convergent and discriminant validity of procedural justice and police legitimacy: An empirical test of core theoretical propositions. *Journal of Criminal Justice*, 39(6), 489-498.

Gau, J.M. (2013). "Basic Principles and Practices of Structural Equation Modeling in Criminal Justice and Criminology Research" in Pratt, T.C. (ed.) *Advancing quantitative methods in criminology and criminal justice*. Routledge.

Gau, J. M. (2014). Procedural justice and police legitimacy: A test of measurement and structure. *American Journal of Criminal Justice*, 39(2), 187-205.

Gau, J. M., & Pratt, T. C. (2008). Broken windows or window dressing? Citizens'(in) ability to tell the difference between disorder and crime. *Criminology & Public Policy*, 7(2), 163-194.

GDPR FAQs (n.d.). Retrieved from <https://eugdpr.org/the-regulation/gdpr-faqs>

Gilding, M. (2010). Motives of the rich and powerful in doing interviews with social scientists. *International sociology*, 25(6), 755-777.

Ginsberg, M. (1965), *On Justice in Society*. Heinemann Educational Books Ltd.

Gobena, L. B., & Van Dijke, M. (2016). Power, justice, and trust: A moderated mediation analysis of tax compliance among Ethiopian business owners. *Journal of Economic Psychology*, 52, 24-37.

Goffman, E. (1956). The nature of deference and demeanor. *American Anthropologist*, 58(3), 473-502.

Goldman, E. F., & Swayze, S. (2012). In-depth interviewing with healthcare corporate elites: Strategies for entry and engagement. *International Journal of Qualitative Methods*, 11(3), 230-243.

Gorsuch, R. L. (1983). *Factor Analysis* (2nd ed.). Hillsdale, NJ: Erlbaum.

Gouriet v Union of Post Office Workers [1977] QB 729.

Grasmick, H. G., & Bursik Jr, R. J. (1990). Conscience, significant others, and rational choice: Extending the deterrence model. *Law and society review*, 837-861.

Grasshoff, G., Mogul, Z., Pfuhler, T., Gittfried, N., Wiegand, C., Bohn, A., and Vonhoff V. (2017). *Global Risk 2017: Staying the Course in Banking*. The Boston Consulting Group. Retrieved from http://image-src.bcg.com/BCG_COM/BCG-Staying-the-Course-in-Banking-Mar-2017_tcm9-146794.pdf.

Gray, J. (2006a), *Lawyers' Latin: A Vade Mecum*, London, UK: Robert Hale Limited.

Gray, G. C. (2006b). The regulation of corporate violations: Punishment, compliance, and the blurring of responsibility. *British Journal of Criminology*, 46(5), 875-892.

Green, L. (1990). *The Authority of the State*. Oxford: Clarendon Press.

Guest, G., Bunce, A., & Johnson, L. (2006). How many interviews are enough? An experiment with data saturation and variability. *Field methods*, 18(1), 59-82.

Guilford, J. P. (1954). *Psychometric methods* (2nd ed.). New York: McGraw-Hill.

Haas, N. E., Van Craen, M., Skogan, W. G., & Fleitas, D. M. (2015). Explaining officer compliance: The importance of procedural justice and trust inside a police organization. *Criminology & criminal justice*, 15(4), 442-463.

Hair, J., Black, W., Babin, B., and Anderson, R. (2010). *Multivariate data analysis*. Upper Saddle River, NJ, USA: Prentice-Hall, Inc.

Hair, J., Black, W., Babin, B., and Anderson, R. (2014). *Multivariate data analysis*. Harlow: Pearson Education Limited.

Hair, J.F., Ringle, C.M. and Sarstedt, M. (2011). PLS-SEM: Indeed a silver bullet. *Journal of Marketing theory and Practice*, 19(2), pp.139-152.

Hall, E. (2015). Bernard Williams and the basic legitimation demand: a defence. *Political Studies*, 63(2), 466-480.

Harding, R. (2014) Rehabilitation and prison social climate: Do ‘What Works’ rehabilitation programs work better in prisons that have a positive social climate? *Australian & New Zealand Journal of Criminology* 47(2):163-175.

Hart, H. L. A. (2012), *The Concept of Law*, Amen House, London; Oxford University Press.

Hartner, M., Rechberger, S., Kirchler, E., & Schabmann, A. (2008). Procedural fairness and tax compliance. *Economic analysis and policy*, 38(1), 137.

Hartner, M., Rechberger, S., Kirchler, E., & Wenzel, M. (2011). Perceived distributive fairness of EU transfer payments, outcome favorability, identity, and EU-tax compliance. *Law & policy*, 33(1), 60-81.

Harvey, W. S. (2010). Methodological approaches for interviewing elites. *Geography Compass*, 4(3), 193-205.

Hawkins, K. (1984) *Environment and Enforcement: Regulation and the Social Definition of Pollution*, Oxford, UK; Oxford University Press.

Healey, M. J., & Rawlinson, M. B. (1993). Interviewing business owners and managers: a review of methods and techniques. *Geoforum*, 24(3), 339-355.

Henning, P. J. (2015). Is deterrence relevant in sentencing white-collar criminals. *Wayne L. Rev.*, 61, 27-57.

Hennink, M., Hutter, I., and Bailey, A. (2011) *Qualitative Research Methods*, London, UK: Sage Publications Ltd.

- Hertogh, M. (2015). What moves Joe Driver? How perceptions of legitimacy shape regulatory compliance among Dutch traffic offenders. *International Journal of Law, Crime and Justice*, 43(2), 214-234.
- Hinds, L. and Murphy, K., (2007). Public satisfaction with police: Using procedural justice to improve police legitimacy. *Australian & New Zealand Journal of Criminology*, 40(1), 27-42.
- Hinsch, W. (2008). "Legitimacy and justice" in Kuhnelt, J. (ed.) *Political Legitimization without Morality?* Netherlands: Springer (39-52).
- Hinsch, W. (2010). Justice, legitimacy, and constitutional rights. *Critical Review of International Social and Political Philosophy*, 13(1), 39-54.
- Hofmann, E., Gangl, K., Kirchler, E., & Stark, J. (2014). Enhancing Tax Compliance through Coercive and Legitimate Power of Tax Authorities by Concurrently Diminishing or Facilitating Trust in Tax Authorities. *Law & policy*, 36(3), 290-313.
- Hofmann, E., Hartl, B., Gangl, K., Hartner-Tiefenthaler, M., & Kirchler, E. (2017). Authorities' coercive and legitimate power: the impact on cognitions underlying cooperation. *Frontiers in psychology*, 8, 5.
- Hollinger, R. C., & Clark, J. P. (1982). Formal and informal social controls of employee deviance. *Sociological quarterly*, 23(3), 333-343.
- Home Office (1991) 'Prison Disturbances 1990', The Woolf Report. London: HMSO.
- Honneth, A. (2005). *The Struggle for Recognition - The Moral Grammar of Social Conflicts*. Cambridge, UK: Policy Press.
- Hooper, D., Coughlan, J., & Mullen, M. R. (2008). Structural Equation Modelling: Guidelines for Determining Model Fit. *Electronic Journal of Business Research Methods*, 6(1), 53-60.
- Hough, M., Jackson, J., & Bradford, B. (2013). "Legitimacy, Trust and Compliance: An Empirical Test of Procedural Justice Theory Using the European Social Survey" in Tankebe, J. and Liebling, A. (eds.) *Legitimacy and Criminal Justice: An International Exploration*. New York, NY: Oxford University Press (326-352).
- Huang, J. Y. (2015). Effectiveness of US anti-money laundering regulations and HSBC case study. *Journal of Money Laundering Control*, 18(4), 525-532.
- Hu, L.T. and Bentler, P.M., (1999). Cutoff criteria for fit indexes in covariance structure analysis: Conventional criteria versus new alternatives. *Structural equation modeling: a multidisciplinary journal*, 6(1), 1-55.
- Hulley, S., Liebling, A., & Crewe, B. (2011). Respect in prisons: Prisoners' experiences of respect in public and private sector prisons. *Criminology & Criminal Justice*, 12(1), 3-23.

Humphreys, A., & Latour, K. A. (2013). Framing the game: Assessing the impact of cultural representations on consumer perceptions of legitimacy. *Journal of Consumer Research*, 40(4), 773-795.

Hunt, J.A. (1998) Mixed Funding Within the British Healthcare System: An Examination of the Effects on Professional Relationships between Paediatric Oncology Outreach Nurse Specialists and Other Health Care Professionals. Unpublished PhD thesis. University of Surrey.

Hunter, A. (1993). Local knowledge and local power: Notes on the ethnography of local community elites. *Journal of Contemporary Ethnography*, 22(1), 36-58.

Hunter, A. (1995). "Local knowledge and Local power Notes on the Ethnography of Local Elites" in Hertz, R. and Imber, J. B. (eds). *Studying Elites Using Qualitative Methods*. London, UK: Sage Publications Ltd.

Huntington, S. (1991). *The third wave: Democratization in the late twentieth century*. Norman, OK: University of Oklahoma Press.

Huq, A. Z., Tyler, T. R., & Schulhofer, S. J. (2011). Why does the public cooperate with law enforcement? The influence of the purposes and targets of policing. *Psychology, Public Policy, and Law*, 17(3), 419.

Hutcheson, G.D. and Sofroniou, N. (1999). *The multivariate social scientist: Introductory statistics using generalized linear models*. Sage.

Iacobucci, D., (2010). Structural equations modeling: Fit indices, sample size, and advanced topics. *Journal of consumer psychology*, 20(1), 90-98.

Institute of Malta Financial Services Practitioners [IFSP] (2017, April 24), *The Rule of Law is Paramount IFSP expresses serious concern about the current situation* (press release) (Retrieved from http://ifsp.org.mt/wp-content/uploads/2017/04/2017_04_24-IFSP-Statement.pdf).

International Monetary Fund Report, *Malta Selected Issues*, IMF Country Report No. 19/69. Retrieved from <https://www.imf.org/en/Publications/CR/Issues/2019/02/27/Malta-Selected-Issues-46635>.

Jackson, J. (2015). "On the dual motivational force of legitimate authority" in Bornstein, B. H. and Tomkins, A. J. (Eds) *Motivating Cooperation and Compliance with Authority The Role of Institutional Trust*. Cham: Springer (145-166).

Jackson, J., Bradford, B., Hough, M., Kuha, J., Stares, S., Widdop, S., & Galev, T. (2011). Developing European indicators of trust in justice. *European journal of criminology*, 8(4), 267-285.

Jackson, J., Bradford, B., Hough, M., Myhill, A., Quinton, P., & Tyler, T. R. (2012). Why do people comply with the law? Legitimacy and the influence of legal institutions. *British journal of criminology*, 52(6), 1051-1071.

Jackson, J., Huq, A. Z., Bradford, B., & Tyler, T. R. (2013). Monopolizing force? Police legitimacy and public attitudes toward the acceptability of violence. *Psychology, public policy, and law*, 19(4), 479.

Jaffer, S., Morris, N., & Vines, D. (2014). "Why Trustworthiness is Important" in Morris, N. & Vines, D. (Eds.) *Capital Failure Rebuilding Trust in Financial Services*. Oxford, UK: Oxford University Press.

Johnson, P.C. & Cooperrider, D.L. (1991). "Finding a path with heart: Global social change organizations and their challenge for the field of organization development". In Woodman, R. & Pasmore, W. (eds.) *Research in Organizational Change and Development: Volume 5* (pp.223-284). Greenwich CT: JAI Press.

Johnson, C., Dowd, T.J. and Ridgeway, C.L., 2006. Legitimacy as a social process. *Annu. Rev. Sociol.*, 32, 53-78.

Johnson, D., Maguire, E. R., & Kuhns, J. B. (2014). Public Perceptions of the Legitimacy of the Law and Legal Authorities: Evidence from the Caribbean. *Law & society review*, 48(4), 947-978.

Johnston, D. (2011). *A brief history of justice* (Vol. 10). John Wiley & Sons.

Jonathan-Zamir, T., Mastrofski, S. D., & Moyal, S. (2015). Measuring procedural justice in police-citizen encounters. *Justice Quarterly*, 32(5), 845-871.

Jones, M. (2016). Research and Organisations. London, UK: Sage Publications Ltd.

Jordanoska, A. (2018). The Social Ecology of White-Collar Crime: Applying Situational Action Theory to White-Collar Offending. *Deviant Behavior*, 39(11), 1427-1449.

Kagan, R., & Scholz, T. J. (1984) "The Criminology of the Corporation and Regulatory Enforcement Strategies." in Hawkins, K and Thomas, J. M. (Eds) *Enforcing Regulation*, Boston: Kluwer-Nijhoff (37-58).

Kaina, Viktoria. 2008. Legitimacy, trust and procedural fairness: Remarks on Marcia Grimes' study. *European Journal of Political Research*, 45, 510–21.

Kaissar, N. (2018, September 13). Who Lost the Most in the Financial Crisis. *The Washington Post*. Retrieved from https://www.washingtonpost.com/business/who-lost-the-most-in-the-financial-crisis-ordinary-americans/2018/09/13/07a57370-b73c-11e8-ae4f-2c1439c96d79_story.html.

Kane, R. J. (2005). Compromised police legitimacy as a predictor of violent crime in structurally disadvantaged communities. *Criminology*, 43(2), 469-498.

Karnieli-Miller, O., Strier, R., & Pessach, L. (2009). Power relations in qualitative research. *Qualitative health research*, 19(2), 279-289.

- Kastlunger, B., Lozza, E., Kirchler, E., & Schabmann, A. (2013). Powerful authorities and trusting citizens: The Slippery Slope Framework and tax compliance in Italy. *Journal of Economic Psychology*, 34, 36-45.
- Kearns, E. M., Ashooh, E., & Lowrey-Kinberg, B. (2019). Racial Differences in Conceptualizing Legitimacy and Trust in Police. *American Journal of Criminal Justice*, 1-25.
- Kezar, A. (2003). Transformational elite interviews: Principles and problems. *Qualitative inquiry*, 9(3), 395-415.
- Kim, Y. S., Ra, K. H., & McLean, K. (2019). The generalizability of police legitimacy: procedural justice, legitimacy, and speeding intention of South Korean drivers. *Asian journal of criminology*, 14(1), 41-59.
- Klepper, S., & Nagin, D. (1989). Tax compliance and perceptions of the risks of detention and criminal prosecution. *Law & Soc'y Rev.*, 23(2), 209-240.
- Kline, P. (1994). *An Easy Guide To Factor Analysis*. New York: Routledge.
- Kumar, K., Bakhshi, A., & Rani, E. (2009). Organizational Justice Perceptions as Predictor of Job Satisfaction and Organizational Commitment. *IUP Journal of Management Research*, 8(10).
- Kuperan, K., & Sutinen, J. G. (1998). Blue water crime: deterrence, legitimacy, and compliance in fisheries. *Law and Society Review*, 309-338.
- Kvale, S. (1996). *InterViews: an introduction to qualitative research interviewing*. Sage.
- Kyriakou, S. (2018, October 26). Enough with the one-size-fits-all-regulation already. FTadvisor.com. Retrieved from <https://www.ftadviser.com/opinion/2018/10/26/enough-with-the-one-size-fits-all-regulation-already/>.
- Lai, K. and Green, S.B. (2016). The problem with having two watches: Assessment of fit when RMSEA and CFI disagree. *Multivariate behavioral research*, 51(2-3), 220-239.
- Lancaster, K. (2017). Confidentiality, anonymity and power relations in elite interviewing: conducting qualitative policy research in a politicised domain. *International Journal of Social Research Methodology*, 20(1), 93-103.
- Lassman, P. (2000). "The rule of man over man: Politics, power, and legitimation" in Turner, S. (ed.), *The Cambridge companion to Weber*. Cambridge, UK; Cambridge University Press (83-98).
- Lassman, P. and Spiers, R. (2010). *Weber Political Writings*, Cambridge, UK; Cambridge University Press.
- Leblanc, R., & Schwartz, M. S. (2007). The black box of board process: Gaining access to a difficult subject. *Corporate Governance: An International Review*, 15(5), 843-851.

- Leventhal, G. S. (1976). *Fairness in social relationships*. Morristown, NJ: General Learning Press.
- Leventhal, G. S. (1980). What should be done with equity theory? in K. J. Gergen, M. S. Greenberg, & R. H. Willis (Eds.), *Social exchange: Advances in theory and research*. New York: Plenum (pp. 27–55).
- Levi, M., Sacks, A., & Tyler, T. (2009). Conceptualizing legitimacy, measuring legitimating beliefs. *American Behavioral Scientist*, 53(3), 354-375.
- Levine, R. J. (1991). Informed consent: some challenges to the universal validity of the Western model. *Law, Medicine and Health Care*, 19(3-4), 207-213.
- Lewicki, R. J. and Bunker, B. B. (1996) “Developing and Maintaining Trust in Work Relationships” in Kramer, R. M. and Tyler, T. R. (ed.) *Trust in Organisations Frontiers of Theory and Research*, Thousand Oaks, CA; SAGE Publications Ltd.
- Liebling, A., (1999). Doing research in prison: Breaking the silence? *Theoretical Criminology*, 3(2), 147-173.
- Liebling, A. (2001). Whose side are we on? Theory, practice and allegiances in prisons research. *British Journal of Criminology*, 41(3), 472-484.
- Liebling, A. (2002). *Suicides in Prison*. London, UK: Routledge.
- Liebling, A. (2004). *Prisons and their Moral Performance: A Study of Values, Quality and Prison Life*. Clarendon Studies in Criminology, Oxford: Oxford University Press.
- Liebling, A. (2011). Distinctions and distinctiveness in the work of prison officers: Legitimacy and authority revisited. *European Journal of Criminology*, 8(6), 484-499.
- Liebling, A., Arnold, H., and Straub, C. (2011). An exploration of staff–prisoner relationships at HMP Whitemoor: 12 years on. *Revised Final Report, Ministry of Justice, National Offender Management Service. Cambridge Institute of Criminology Prisons Research Centre*. Retrieved from: <http://gcecs.edu.au/wp-content/uploads/2013/08/An-exploration-of-staff-prisoner-relationships-at-HMP-Whitemoor-12-Years-On.pdf>.
- Liebling, A., Hulley, S. and Crewe, B. (2012a) ‘Conceptualising and measuring the quality of prison life’ in Gadd, D., Karstedt, S., and Messner, S. F. (eds.) *The Sage handbook of criminological research methods*. London: SAGE Publications (pp. 358-372).
- Liebling, A., & Ludlow, A. (2017). Privatising public prisons: Penalty, law and practice. *Australian & New Zealand Journal of Criminology*, 50(4), 473-492.
- Liebling, A., Price, D., & Elliott, C. (1999). Appreciative inquiry and relationships in prison. *Punishment & Society*, 1(1), 71-98.
- Liebling, A., Price, D., and Shefer, G. (2012b) *The Prison Officer*, Oxford, UK: Routledge.

Limerick, D. and Cunningham, B., (1993). *Managing the new organisation: A blueprint for networks and strategic alliances*. San Francisco: Jossey-Bass.

Liu, X. (2018). Interviewing elites: Methodological issues confronting a novice. *International Journal of Qualitative Methods*, 17(1), 1-9.

Liu, S., & Liu, J. (2018). Police legitimacy and compliance with the law among Chinese youth. *International journal of offender therapy and comparative criminology*, 62(11), 3536-3561.

Loader, I. and Sparks, R. (2013) "Unfinished Business: Legitimacy, Crime Control, and Democratic Politics" in Tankebe, J. and Liebling, A. (eds.) *Legitimacy and Criminal Justice An International Exploration*. New York, NY: Oxford University Press (pp. 105-126).

Loo, R. and Thorpe, K. (2000). Confirmatory factor analyses of the full and short versions of the Marlowe-Crowne Social Desirability Scale. *The Journal of social psychology*, 140(5), 628-635.

Lord, N. (2016). Establishing enforcement legitimacy in the pursuit of rule-breaking 'global elites': The case of transnational corporate bribery. *Theoretical Criminology*, 20(3), 376-399.

Lord, N. & Levi, M. (2015). "Determining the adequacy of white-collar and corporate crime in Europe" in van Erp, J., Huisman, W., & Vande Walle, G., assisted by Beckers, J. *The Routledge Handbook of White Collar and Corporate Crime in Europe*. Oxford, UK: Routledge (39-57).

Lucas, J. R. (1980) *On Justice*, Oxford: Clarendon Press.

Lybeck, J. (2011). *A global history of the financial crash of 2007-2010*. Cambridge: Cambridge University Press.

MacCallum RC, Widaman KF, Zhang S and Hong S. (1999). Sample size in factor analysis. *Psychological Methods* 4(1), 84-99.

MacCormick, N. (2007). *Institutions of law: an essay in legal theory*. Oxford, UK: Oxford University Press.

MacIntyre, A. (2013). *After virtue* (Bloomsbury revelations). London, UK: Bloomsbury Publishing.

MacKinnon, D. P., Krull, J. L., & Lockwood, C. M. (2000). Equivalence of the mediation, confounding and suppression effect. *Prevention science*, 1(4), 173-181.

Maguire, E. R., & Johnson, D. (2010). Measuring public perceptions of the police. *Policing: an international journal of police strategies & management*, 33(4), 703-730.

Makkai, T., & Braithwaite, J. (1994). The dialectics of corporate deterrence. *Journal of research in crime and delinquency*, 31(4), 347-373.

Majone, G. (1996). "Regulatory Legitimacy" in Richardson, J. (ed.) *Regulating Europe*. Abington, Oxford: Routledge (284-301).

Majone, G. (1997). From the positive to the regulatory state: causes and consequences of changes in the mode of governance. *Journal of public policy*, 17(2), 139-167.

Majone, G. (1998). The regulatory state and its legitimacy problems. *West European Politics*, 22(1), 1-24.

Malhotra N. K., Dash S. (2011). *Marketing Research an Applied Orientation*. London: Pearson Publishing.

Malta Financial Services Authority Act (Chapter 330 of the Laws of Malta)
<http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8804>.

Malta Financial Services Authority [MFSA] Annual Report (2016) (Retrieved from <https://www.mfsa.mt/wp-content/uploads/2018/12/MFSA-Annual-Report-2016.pdf>).

Malta Financial Services Authority [MFSA] Annual Report (2017) (Retrieved from <https://www.mfsa.mt/wp-content/uploads/2018/12/MFSA-Annual-Report-2017.pdf>).

Malta Financial Services Authority [MFSA] Annual Report (2018) (Retrieved from <https://www.mfsa.mt/wp-content/uploads/2019/07/MFSA-Annual-Report-2018.pdf>).

Malta Overview (n.d.). Retrieved from https://europa.eu/european-union/about-eu/countries/member-countries/malta_en.

Malta Population 2019. (n.d.).
Retrieved from <http://worldpopulationreview.com/countries/malta-population/>.

Marques, R. C., & Pinto, F. S. (2018). How to watch the watchmen? The role and measurement of regulatory governance. *Utilities Policy*, 51, 73-81.

Marsh, H.W., Hau, K.T. and Wen, Z. (2004). In search of golden rules: Comment on hypothesis-testing approaches to setting cutoff values for fit indexes and dangers in overgeneralizing Hu and Bentler's (1999) findings. *Structural equation modeling*, 11(3), 320-341.

Martin, I (2019, August 12). Moneyval: Inside the anti-money laundering dossier Why Malta's anti-money laundering regime failed review by international experts. TimesofMalta.com. Retrieved from <https://timesofmalta.com/articles/view/moneyval-inside-the-anti-money-laundering-dossier.728255>.

Mastrofski, S. D. (1999). Police Foundation, & United States of America. *Policing for People*.

Marx, K. (1887). *Capital: a critical analysis of capitalist production*. George Allen & Unwin Limited.

May, P.J., & Winter, S. (1999). Regulatory enforcement and compliance: Examining Danish agro-environmental policy. *Journal of Policy Analysis and Management: The Journal of the Association for Public Policy Analysis and Management*, 18(4), 625-651.

May, P. J., & Wood, R. S. (2003). At the regulatory front lines: Inspectors' enforcement styles and regulatory compliance. *Journal of Public Administration Research and Theory*, 13(2), 117-139.

Mayo, E., (1949). Hawthorne and the western electric company. *Public Administration: Concepts and Cases*, 149-158.

Mazerolle, L., Bennett, S., Davis, J., Sargeant, E. and Manning, M., (2013). Legitimacy in policing: A systematic review. *Campbell Systematic Reviews*. Retrieved from https://openresearch-repository.anu.edu.au/bitstream/1885/153391/2/01_Mazerolle_Legitimacy_in_Policing%253A_A_2013.pdf.

McBarnet, D. (2001). *When compliance is not the solution but the problem: From changes in law to changes in attitude*. Centre for Tax System Integrity. Retrieved from <https://openresearch-repository.anu.edu.au/bitstream/1885/154916/1/18.pdf>.

McCarthy, B. J. (1984) Keeping an eye on the keeper: prison corruption and its control, *The Prison Journal* 64(2): 113-125.

McDowell, L. (1998). Elites in the City of London: some methodological considerations. *Environment and planning A*, 30(12), 2133-2146.

Megaw, N. (2019, August 30). After PPI, what could be the next banking mis-selling scandal? *FT.Com*, Retrieved from <https://ezp.lib.cam.ac.uk/login?url=https://search-proquest-com.ezp.lib.cam.ac.uk/docview/2282708349?accountid=9851>.

Merle, R. (2018, September 10). A guide to the financial crisis – 10 years on. *The Washington Post*. Retrieved from https://www.washingtonpost.com/business/economy/a-guide-to-the-financial-crisis--10-years-later/2018/09/10/114b76ba-af10-11e8-a20b-5f4f84429666_story.html.

Merton, R.K., (1938). Social structure and anomie. *American sociological review*, 3(5), 672-682.

MFSA appoints New Chairman and CEO. (2018, April 17). Retrieved from <https://www.csbgroup.com/malta-news/financial/mfsa-appoints-new-chairman-and-ceo/>.

MFSA Virtual Financial Assets. (n.d.). Retrieved from <https://www.mfsa.com.mt/fintech/virtual-financial-assets/>.

Mikecz, R. (2012). Interviewing elites: Addressing methodological issues. *Qualitative inquiry*, 18(6), 482-493.

Mills, C. W. (2000). *The sociological imagination*. Oxford, UK: Oxford University Press.

MoneyVal (2019). Anti-money laundering and counter-terrorist financing measures – Malta – Fifth Round Mutual Evaluation Report. Retrieved from: <https://rm.coe.int/moneyval-2019-5-5th-round-mer-malta2/168097396c>

Miller, A. H., & Listhaug, O. (1990). Political parties and confidence in government: A comparison of Norway, Sweden and the United States. *British Journal of Political Science*, 20(3), 357-386.

Mohdali, R., Isa, K., & Yusoff, S. H. (2014). The impact of threat of punishment on tax compliance and non-compliance attitudes in Malaysia. *Procedia-Social and Behavioral Sciences*, 164, 291-297.

Morse, J.M., (1999). Qualitative generalizability. *Qualitative Health Research*, 9(1), 5-6.

‘MQPL +’: Analyses of quality, culture, and values in individual prisons (n.d.). Retrieved from <https://www.prc.crim.cam.ac.uk/directory/research-themes/mqpl>.

Muir, W. K. (1979). *Police: streetcorner politicians*. Chicago: University of Chicago Press.

Muratbegović, E., Vujović, S., & Fazlić, A. (2014). Procedural justice, police legitimacy and cooperation of Bosnian students with the police. *VARSTVOSLOVJE, Journal of Criminal Justice and Security*, 16(4), 387-411.

Murphy, K. (2004). The role of trust in nurturing compliance: A study of accused tax avoiders. *Law and human behavior*, 28(2), 187-209.

Murphy, K. (2005). Regulating more effectively: The relationship between procedural justice, legitimacy, and tax non-compliance. *Journal of law and Society*, 32(4), 562-589.

Murphy, K. (2008). Enforcing tax compliance: to punish or persuade? *Economic analysis and policy*, 38(1), 113-135.

Murphy, K., Bradford, B., & Jackson, J. (2016). Motivating compliance behavior among offenders: Procedural justice or deterrence? *Criminal Justice and Behavior*, 43(1), 102-118.

Murphy, K., & Byng, K. (2002). Preliminary findings from the Australian tax system survey of tax scheme investors'. Centre for Tax System Integrity Working Paper 40.

Murphy, K., & Harris, N. (2007). Shaming, shame and recidivism: A test of reintegrative shaming theory in the white-collar crime context. *The British Journal of Criminology*, 47(6), 900-917.

Murphy, K., Hinds, L., & Fleming, J. (2008). Encouraging public cooperation and support for police. *Policing & Society*, 18(2), 136-155.

Murphy, K., & Sakurai, Y. (2001) Aggressive Tax Planning: Differentiating those playing the game from those who don't? Centre for Tax System Integrity Working Paper 25.

Murphy, K., & Tyler, T. R. (2017). Experimenting with procedural justice policing. *Journal of Experimental Criminology*, 13(3), 287-292.

Murphy, K., Tyler, T. R., & Curtis, A. (2009). Nurturing regulatory compliance: Is procedural justice effective when people question the legitimacy of the law?. *Regulation & governance*, 3(1), 1-26.

Nagin, D. S. (2013a). Deterrence in the twenty-first century. *Crime and justice*, 42(1), 199-263.

Nagin, D. S. (2013b). Deterrence: A review of the evidence by a criminologist for economists. *Annu. Rev. Econ.*, 5(1), 83-105.

Nagin, D. S., & Paternoster, R. (1994). Personal capital and social control: The deterrence implications of a theory of individual differences in criminal offending. *Criminology*, 32(4), 581-606.

Nagin, D. S., Solow, R. M., & Lum, C. (2015). Deterrence, criminal opportunities, and police. *Criminology*, 53(1), 74-100.

National Audit Office (2016). *Financial services mis-selling: regulation and redress*. Retrieved from <https://www.nao.org.uk/wp-content/uploads/2016/02/Financial-services-mis-selling-regulation-and-redress.a.pdf>.

National Statistics Office Malta (2018). *World Population Day*. Retrieved from https://nso.gov.mt/en/News_Releases/View_by_Unit/Unit_C5/Population_and_Migration_Statistics/Documents/2018/News2018_107.pdf.

Neuman, L. W. and Wiegand, B. (2000) *Criminal Justice Research Methods*, Needham Heights, MA: Allyn & Bacon.

Noaks, L. and Wincup, E (2004) *Criminological research: Understanding qualitative methods*, London, UK: Sage.

Noonan, L., Tilford, C., Milne, R., Mount, I., & Wise, P. (2018). Who went to jail for their role in the financial crisis? *FT.Com*, Retrieved from <https://ezp.lib.cam.ac.uk/login?url=https://search-proquest-com.ezp.lib.cam.ac.uk/docview/2110136669?accountid=9851>.

Novick, P. (1968), *The Resistance versus Vichy: The Purge of Collaborators in Liberated France*. New York: Colombia University Press.

Nunnally, J. (1978). *Psychometric Theory* (2nd Ed.). New York: McGraw-Hill.

Ntayi-Mpeera, J., Ngoboka, P., Mutebi, H., & Sitenda, G. (2012). Social value orientation and regulatory compliance in Ugandan public procurement. *International Journal of Social Economics*, 39(11), 900-920.

Oakley, A. (1982) 'Interviewing Women: A Contradiction in terms' in Roberts, H. (ed) *Doing Feminist Research*. London: Routledge.

Odendahl, T., & Shaw, A. M. (2002). Interviewing elites. *Handbook of interview research: Context and method*, 299-316.

Oliver, C. (1997). Sustainable competitive advantage: combining institutional and resource-based views. *Strategic management journal*, 18(9), 697-713.

O'Neill, O. (2002). *A question of trust: The BBC Reith Lectures 2002*. Cambridge, UK: Cambridge University Press.

O'Neill, O. (2014). 'Trust, Trustworthiness, and Accountability' in Morris, N., and Vines, D. (ed.) *Capital Failure: Rebuilding Trust in Financial Services*. Oxford University Press (pp. 172-191).

Onwuegbuzie, A.J. and Leech, N.L. (2007). Sampling designs in qualitative research: Making the sampling process more public. *The qualitative report*, 12(2), pp. 238-254.

Organization for Economic Co-operation and Development (2002). Glossary of Statistical Terms. Retrieved from <https://stats.oecd.org/glossary/detail.asp?ID=3295>.

Ostrander, S. A. (1993). "Surely you're not in this just to be helpful" Access, Rapport, and Interviews in Three Studies of Elites. *Journal of contemporary ethnography*, 22(1), 7-27.

Paternoster, R. (2010). How much do we really know about criminal deterrence? *Journal of Criminal Law & Criminology*, 100(3), 765-824.

Paternoster, R. (2016), 'Deterring Corporate Crime: Evidence and Outlook', *Criminology & Public Policy*, 15: 383-386.

Paternoster, R., Bachman, R., Brame, R., & Sherman, L. W. (1997). Do fair procedures matter-the effect of procedural justice on spouse assault. *Law & Soc'y Rev.*, 31(1), 163-204.

Paternoster, R. & Simpson, S. (1993). "A Rational Choice Theory of Corporate Crime" in Clarke, R. V. G. and Felson, M. (Eds.) *Routine Activity and Rational Choice Volume 5 Advances in Criminological Theory*. London, UK: Transaction Publishers (37-59).

Paternoster, R., & Simpson, S. (1996). Sanction threats and appeals to morality: Testing a rational choice model of corporate crime. *Law & Soc'y Rev.*, 30(3), 549-583.

Petkov, M. P., & Kaoullas, L. G. (2016). Overcoming respondent resistance at elite interviews using an intermediary. *Qualitative Research*, 16(4), 411-429.

Pierce, R. (2011). *Research methods in politics*. London, UK: Sage Publications Ltd.

Piquero, N. L. (2012). The Only Thing We Have to Fear Is Fear Itself: Investigating the Relationship Between Fear of Falling and White-Collar Crime. *Crime & Delinquency*, 58(3), 362-379.

Piquero, N. L., Schoepfer, A., & Langton, L. (2010). Completely out of control or the desire to be in complete control? How low self-control and the desire for control relate to corporate offending. *Crime & Delinquency*, 56(4), 627-647.

Polit, D.F. and Beck, C.T. (2010). Generalization in quantitative and qualitative research: Myths and strategies. *International journal of nursing studies*, 47(11): 1451-1458.

Pollack, J. M., Rutherford, M. W., & Nagy, B. G. (2012). Preparedness and cognitive legitimacy as antecedents of new venture funding in televised business pitches. *Entrepreneurship Theory and Practice*, 36(5), 915-939.

Pratt, T. C., & Turanovic, J. J. (2018). "Celerity and deterrence", in Nagin, D. S., Cullen, F. T., & Lero Johnson, C. (Eds) *Deterrence, Choice, and Crime, Volume 23*. New York, NY: Routledge (187-210).

Prevention of Money Laundering Act Chapter 373 of the Laws of Malta.

Prosser, T. (2010). *The regulatory enterprise: Government, regulation, and legitimacy*. Oxford, UK: Oxford University Press.

Pryce, D. K. (2014). *Procedural justice, legitimacy, and cooperation with police: Evidence from a community of Ghanaian immigrants* (Doctoral dissertation).

Pryce, D. K. (2016). Ghanaian immigrants' experiences with and perceptions of US police: A qualitative study. *Criminal Justice Review*, 41(4), 469-487.

Pryce, D. K., Johnson, D., & Maguire, E. R. (2017). Procedural justice, obligation to obey, and cooperation with police in a sample of Ghanaian immigrants. *Criminal justice and behavior*, 44(5), 733-755.

Punch, M. (2000), Police corruption and its prevention, *European Journal on Criminal Policy and Research*, 8(3): 301-324.

Puwar, N. (1997). Reflections on interviewing women MPs. *Sociological Research Online*, 2(1), 1-10.

Rawls, J. (1972). *A Theory of Justice*. Oxford, UK: Oxford University Press.

R v Tower Hamlets London Borough Council, ex p. Chetnik Developments Ltd [1988] AC 858.

Reisig, M. D., & Bain, S. N. (2016). University legitimacy and student compliance with academic dishonesty codes: A partial test of the process-based model of self-regulation. *Criminal Justice and Behavior*, 43(1), 83-101.

Reisig, M. D., Bratton, J., & Gertz, M. G. (2007). The construct validity and refinement of process-based policing measures. *Criminal Justice and Behavior*, 34(8), 1005–1028.

- Reisig, M. D., & Lloyd, C. (2009). Procedural justice, police legitimacy, and helping the police fight crime: Results from a survey of Jamaican adolescents. *Police quarterly*, 12(1), 42-62.
- Reisig, M. D., & Meško, G. (2009). Procedural justice, legitimacy, and prisoner misconduct. *Psychology, Crime & Law*, 15(1), 41-59.
- Reisig, M. D., Tankebe, J., & Meško, G. (2012). Procedural Justice, Police Legitimacy, and Public Cooperation with the Police Among Young Slovene Adults. *Journal of Criminal Justice & Security*, 14(2), 147-164.
- Reisig, M. D., Tankebe, J., & Meško, G. (2014). Compliance with the law in Slovenia: The role of procedural justice and police legitimacy. *European Journal on Criminal Policy and Research*, 20(2), 259-276.
- Reiss, A. J. (1971). *The police and the public* (Vol. 39). Newhaven, N.J: Yale University Press.
- Richards, D. (1996). Elite interviewing: Approaches and pitfalls. *Politics*, 16(3), 199-204.
- Rivera, S. W., Kozyreva, P. M., & Sarovskii, E. G. (2002). Interviewing political elites: lessons from Russia. *PS: Political Science & Politics*, 35(4), 683-688.
- Roberson, Q. M., & Colquitt, J. A. (2005). Shared and configural justice: A social network model of justice in teams. *Academy of Management Review*, 30(3), 595-607.
- Rosenberg, M., Confessore, N., & Cadwalladr, C. (2018, March 17). How Trump Consultants Exploited the Facebook Data of Millions. *Nytimes.com*. Retrieved from <https://www.nytimes.com/2018/03/17/us/politics/cambridge-analytica-trump-campaign.html>.
- Ryder, N. (2014). *The financial crisis and white-collar crime: The perfect storm?* Massachusetts: Edward Elgar Publishing Inc.
- Ross, M. W., Diamond, P. M., Liebling, A., and Saylor, W. G. (2007) Measurement of prison social climate: a comparison of an inmate measure in England and the USA, *Punishment & Society* 10(4): 447-474.
- Ruef, M., & Scott, W. R. (1998). A multidimensional model of organizational legitimacy: Hospital survival in changing institutional environments. *Administrative science quarterly*, 877-904.
- Russell, B. (2004). *Power: A new social analysis*. Routledge.
- Rorie, M. L., Simpson, S. S., Cohen, M. A., & Vandenberg, M. P. (2018). Examining Procedural Justice and Legitimacy in Corporate Offending and Beyond-Compliance Behavior: The Efficacy of Direct and Indirect Regulatory Interactions. *Law & Policy*, 40(2), 172-195.

Ryan, S. and Lewer, J. (2012) 'Getting in and finding out: accessing and interviewing elites in business and work contexts', in Aguiar, L. L. M. and Schneider, C. J. (eds), *Researching Amongst Elites: Challenges and Opportunities in Studying Up*. Farnham: Ashgate (71–88).

Salancik, G. R., & Pfeffer, J. (1978). A social information processing approach to job attitudes and task design. *Administrative science quarterly*, 23(2), 224-253.

Scarman, L. G. (1981). *The Brixton disorders 10-12 April 1981: report of an inquiry* (Vol. 8427). HmsO Books.

Schell-Busey, N., Simpson, S. S., Rorie, M., & Alper, M. (2016). What works? A systematic review of corporate crime deterrence. *Criminology & Public Policy*, 15(2), 387-416.

Schermelleh-Engel, K., Moosbrugger, H. and Müller, H. (2003). Evaluating the fit of structural equation models: Tests of significance and descriptive goodness-of-fit measures. *Methods of psychological research online*, 8(2), 23-74.

Schindler Holding v. European Commission [2013] EUECJ C-501/11 P (18.07.2013).

Schlegel, K. (1990). *Just deserts for corporate criminals*. Boston, MA: Northeastern University Press.

Schminke, M., Ambrose, M. L., & Cropanzano, R. S. (2000). The effect of organizational structure on perceptions of procedural fairness. *Journal of Applied Psychology*, 85(2), 294-304.

Schoepfer, A., Piquero, N. L., & Langton, L. (2014). Low self-control versus the desire-for-control: An empirical test of white-collar crime and conventional crime. *Deviant behavior*, 35(3), 197-214.

Scott, W. R. (1995). *Institutions and Organizations*. Thousand Oaks, CA: Sage.

Sen, A. (2009). *The Idea of Justice*. London, UK: Allen Lane.

Simon, H. A. (1990). "Bounded Rationality" in Eatwell, J., Milgate, M., & Newman, P. (eds.) *Utility and Probability*. London: Palgrave Macmillan (15-18).

Simpson, S. S. (1992). "Corporate-Crime Deterrence and Corporate-Control Policies: Views from the inside" in Schlegel, K. and Weisburd, D. (eds.) *White-Collar Crime Reconsidered*. Boston, MA: Northeastern University Press.

Simpson, S. S. (2002). *Corporate crime, law, and social control*. Cambridge: Cambridge University Press.

Simpson, S. S., Garner, J., & Gibbs, C. (2007). Why do corporations obey environmental law? *National Institute of Justice. Washington, DC: US Department of Justice*. Retrieved from <https://www.ncjrs.gov/pdffiles1/nij/grants/220693.pdf>.

Simpson, S. S., & Koper, C. S. (1992). Deterring corporate crime. *Criminology*, 30(3), 347-376.

Simpson, S. S., & Piquero, N. L. (2002). Low Self-Control, Organizational Theory, and Corporate Crime. *Law & Society Review*, 36(3), 509-540.

Simpson, S. S., Rorie, M., Alper, M., Schell-Busey, N., Laufer, W. S., Smith, N. C., & Simpson, S. S. (2014). Corporate crime deterrence: A systematic review. *Campbell systematic reviews*, 10(1), 1-105.

Skinner, B. F. (1971). *Beyond Dignity and Freedom*. Middlesex, UK: Penguin Books.

Smith, A. (1976). *The Theory of Moral Sentiments*. Oxford, UK: Clarendon Press.

Smith, K. E. (2006). Problematising power relations in 'elite' interviews. *Geoforum*, 37(4), 643-653.

Souryal, S.S. (2015). 'Deterring corruption', in P. Carlson and J. Garrett (eds), *Prison and Jail Administration: Practice and theory*. Burlington, MA: Jones & Bartlett Learning (pp. 309-321).

Sparks, R. (1994). Can Prisons Be Legitimate? Penal Politics, privatization, and the timeliness of an old idea, *The British Journal of Criminology* 34(1):14-28.

Sparks, J. R., & Bottoms, A. E. (1995). Legitimacy and order in prisons. *British Journal of Sociology*, 45-62.

Sparks, R. and Bottoms, A. E. (2008). 'Legitimacy and imprisonment revisited: some notes on the problem of order ten years after' in J. M. Byrne, F. S. Taxman and D. Hummer (eds) *The Culture of Prison Violence*. Boston, MA: Allyn and Bacon (pp. 91-104).

Sparks, R., Bottoms, A. E., & Hay, W. (1996). *Prisons and the Problem of Order*. Oxford: Clarendon Press.

Spence, E. (2015). Eye-spy wealth: cultural capital and 'knowing luxury' in the identification of and engagement with the superrich. *Annals of Leisure Research*, 19(3), 314-328.

Strauss, A. L. (1987). *Qualitative analysis for social scientists*. Cambridge University Press.

Stewart, G. (2018). 28/9 Regulatory failures (6/7): PPI – the unresolved saga. Retrieved from <https://financialservices.grantthornton.co.uk/post/102f2vu/28-9-regulatory-failures-6-7-ppi-the-unresolved-saga>.

Stevenson, R. L. (1886/2007). *The Strange Case of Dr. Jekyll and Mr. Hyde*. London: Vintage.

Stotland, E., Brintnall, M., L'Heureux, A., & Ashmore, E. (1980). Do convictions deter home repair fraud? *White collar crime: Theory and research*, 252-265.

Strauss, A. L. (1987). *Qualitative analysis for social scientists*. Cambridge University Press.

Suddaby, R., & Greenwood, R. (2005). Rhetorical strategies of legitimacy. *Administrative science quarterly*, 50(1), 35-67.

Suchman, M. C. (1995). Managing legitimacy: Strategic and institutional approaches. *Academy of management review*, 20(3), 571-610.

Sunshine, J., & Tyler, T. R. (2003). The role of procedural justice and legitimacy in shaping public support for policing. *Law & society review*, 37(3), 513-548.

Sun, I. Y., Wu, Y., Hu, R., & Farmer, A. K. (2017). Procedural justice, legitimacy, and public cooperation with police: Does Western wisdom hold in China? *Journal of research in crime and delinquency*, 54(4), 454-478.

Sutherland, E. H. (1983). *White-Collar Crime: The Uncut Version*. Binghamton, N.Y: Yale University Press.

Sztompka, P., 1999. *Trust: A sociological theory*. Cambridge University Press.

Tabachnick, B.G. and Fidell, L.S. (2007). *Using Multivariate Statistics* (5th ed.). New York: Allyn and Bacon.

Tamanaha, Brian Z. (2004). *On the rule of law history, politics, theory*. Cambridge ; New York: Cambridge University Press.

Tankebe, J. (2008) Police effectiveness and police trustworthiness in Ghana: An empirical appraisal, *Criminology & Criminal Justice* 8(2), 185–202.

Tankebe, J. (2009a). Public cooperation with the police in Ghana: Does procedural fairness matter? *Criminology*, 47(4), 1265-1293.

Tankebe, J. (2009b). Self-help, policing, and procedural justice: Ghanaian vigilantism and the rule of law. *Law & society review*, 43(2), 245-270.

Tankebe, J. (2010a). Identifying the correlates of police organizational commitment in Ghana. *Police Quarterly*, 13(1), 73-91.

Tankebe, J. (2010b). Public confidence in the police: Testing the effects of public experiences of police corruption in Ghana. *The British Journal of Criminology*, 50(2), 296-319.

Tankebe, J. (2013). Viewing things differently: The dimensions of public perceptions of police legitimacy. *Criminology*, 51(1), 103-135.

Tankebe, J., (2014). “Police legitimacy” in Reisig M. D. and Kane R. J. (eds.) *The Oxford Handbook of Police and Policing*. New York, NY: Oxford University Press (pp. 238-259).

Tankebe, J. (2019a). Cooperation with the Police Against Corruption: Exploring the Roles of Legitimacy, Deterrence and Collective Action Theories. *The British Journal of Criminology*, 1-21

Tankebe, J., (2019b). "Legitimacy and Regulatory Compliance" in Kapardis-Krambia M. (ed.) *Financial Compliance Issues, Concerns and Future directions*. Cham, Switzerland: Palgrave Macmillan (pp. 47-65).

Tankebe, J., Reisig, M. D., & Wang, X. (2016). A multidimensional model of police legitimacy: A cross-cultural assessment. *Law And Human Behavior*, 40(1), 11-22.

Ten years on; international banking. (2017, May 06). *The Economist*, 423, 3. Retrieved from <https://ezp.lib.cam.ac.uk/login?url=https://search-proquest-com.ezp.lib.cam.ac.uk/docview/1896526336?accountid=9851>.

Thibaut, J. W., & Walker, L. (1975). *Procedural justice: A psychological analysis*. Mahwah, N.J.: L. Erlbaum Associates.

Thomas, R.J., 1993. Interviewing important people in big companies. *Journal of contemporary ethnography*, 22(1), 80-96.

Thoreau, H. D. (2016). *Walden & Civil Disobedience*. Ware: Wordsworth Editions Limited.

Thornton, D., Gunningham, N. A., & Kagan, R. A. (2005). General deterrence and corporate environmental behavior. *Law & Policy*, 27(2), 262-288.

Tombs, S., & Whyte, D. (2015). Introduction to the Special Issue on Crimes of the Powerful. *How. J. Crim. Just.*, 54(1), 1-7.

Tooze, J. (2018). *Crashed: How a decade of financial crises changed the world*. London: Penguin Books.

Trinkner, R., & Cohn, E. S. (2014). Putting the "social" back in legal socialization: Procedural justice, legitimacy, and cynicism in legal and nonlegal authorities. *Law and Human Behavior*, 38(6), 602.

Trinkner, R., Jackson, J., & Tyler, T. (2018). Bounded Authority: Expanding "Appropriate" Police Behavior Beyond Procedural Justice. *Law and Human Behavior*, 42(3), 280-293.

Tucker, P. (2018). *Unelected power: The quest for legitimacy in central banking and the regulatory state*. Princeton, NJ: Princeton University Press.

Tyler, T. R. (1990). *Why people obey the law*. Princeton: Princeton University Press.

Tyler, T. R. (1997). The psychology of legitimacy: A relational perspective on voluntary deference to authorities. *Personality and social psychology review*, 1(4), 323-345.

Tyler, T. R. (2003). Procedural justice, legitimacy, and the effective rule of law. *Crime and justice*, 30, 283-357.

Tyler, T. R. (2006a). Psychological perspectives on legitimacy and legitimation. *Annu. Rev. Psychol.*, 57, 375-400.

Tyler, T. R. (2006b). *Why people obey the law*. Princeton University Press.

Tyler, T. R., & Blader, S. L. (2000). Cooperation in Groups: Procedural Justice. *Social Identity, and Behavioral Engagement*, Philadelphia, PA; Hove: Psychology Press.

Tyler, T.R. and Blader, S.L. (2003). The group engagement model: Procedural justice, social identity, and cooperative behavior. *Personality and social psychology review*, 7(4), 349-361.

Tyler, T. R., & Blader, S. L. (2005). Can businesses effectively regulate employee conduct? The antecedents of rule following in work settings. *Academy of Management Journal*, 48(6), 1143-1158.

Tyler, T. R., Callahan, P. E., & Frost, J. (2007). Armed, and dangerous (?): Motivating rule adherence among agents of social control. *Law & Society Review*, 41(2), 457-492.

Tyler, T. R., Casper, J. D., & Fisher, B. (1989). Maintaining allegiance toward political authorities: The role of prior attitudes and the use of fair procedures. *American Journal of Political Science*, 629-652.

Tyler, T. R., & Fagan, J. (2008). Legitimacy and cooperation: Why do people help the police fight crime in their communities. *Ohio St. J. Crim. L.*, 6, 231.

Tyler, T. R., Fagan, J., & Geller, A. (2014). Street stops and police legitimacy: Teachable moments in young urban men's legal socialization. *Journal of empirical legal studies*, 11(4), 751-785.

Tyler, T. R., and Huo, Y. (2002). *Trust in the Law: Encouraging Public Cooperation with the Police and Courts Through*. New York, NY: Russell Sage Foundation.

Tyler, T. R., & Jackson, J. (2014). Popular legitimacy and the exercise of legal authority: Motivating compliance, cooperation, and engagement. *Psychology, public policy, and law*, 20(1), 78.

Tyler, T.R. and Kramer, R. M. (1996) "Whither Trust?" in Kramer, R. M. and Tyler, T. R. (ed.) *Trust in Organisations Frontiers of Theory and Research*, Thousand Oaks, CA; SAGE Publications Ltd.

Tyler, T.R. and Lind, E.A., 1992. A relational model of authority in groups. In *Advances in experimental social psychology* (Vol. 25, pp. 115-191). Academic Press.

Tyler, T.R., Schulhofer, S. and Huq, A.Z. (2010). Legitimacy and deterrence effects in counterterrorism policing: A study of Muslim Americans. *Law & society review*, 44(2), 365-402.

Tyler, T. R., & Wakslak, C. J. (2004). Profiling and police legitimacy: Procedural justice, attributions of motive, and acceptance of police authority. *Criminology*, 42(2), 253-282.

Tzu, L. (2006). *Tao te Ching*. New York, NY: Harper Perennial.

Vainio, A. (2011). Why are forest owners satisfied with forest policy decisions? Legitimacy, procedural justice, and perceived uncertainty. *Social Justice Research*, 24(3), 239.

Van Berkel, H.J. and Schmidt, H.G. (2000). Motivation to commit oneself as a determinant of achievement in problem-based learning. *Higher Education*, 40(2), 231-242.

Van Craen, M., & Skogan, W. G. (2015). Trust in the Belgian police: The importance of responsiveness. *European journal of criminology*, 12(2), 129-150.

Van Damme, A., & Pauwels, L. (2016). Why are young adults willing to cooperate with the police and comply with traffic laws? Examining the role of attitudes toward the police and law, perceived deterrence and personal morality. *International Journal of Law, Crime and Justice*, 46, 103-116.

Van Maanen, J. and Kolb, D. (1985) 'The professional apprentice: observations on fieldwork role in two organizational settings', *Research in the Sociology of Organizations*, 4:1-33.

Van der Toorn, J., Feinberg, M., Jost, J. T., Kay, A. C., Tyler, T. R., Willer, R., & Wilmuth, C. (2014). A sense of powerlessness fosters system justification: Implications for the legitimation of authority, hierarchy, and government. *Political Psychology*, 36(1), 93-110.

Vella, M. (2014, October 28). Maltese Cross clients to sue Financial Services Authority over €6.2 million losses. Maltatoday.com. retrieved from https://www.maltatoday.com.mt/business/business_news/45543/maltese_cross_clients_to_sue_financial_services_authority_over_62_million_losses_#.XYZWLvZul2w.

Verboon, P., & Goslinga, S. (2009). The role of fairness in tax compliance. *Netherlands Journal of Psychology*, 65(4), 136-145.

Virtual Financial Assets Act Chapter 590 of the Laws of Malta.

Von Haldenwang, C. (2016). *Measuring Legitimacy-New Trends, Old Shortcomings?* Bonn: Deutsches Institut für Entwicklungspolitik.

Von Hirsch, A., Bottoms, A. E., Burney, E., & Wikström, P. O. H. (1999) *Criminal Deterrence and Sentence Severity*. Oxford: Hart Publishing.

Wade, H. R. W. (1982). *Administrative Law*. Oxford: Clarendon Press.

Walters, R. H., Parke, R. D., & Cane, V. A. (1965). Timing of punishment and the observation of consequences to others as determinants of response inhibition. *Journal of experimental child Psychology*, 2(1), 10-30.

Watkins, J. M., Mohr, B. J., & Kelly, R. (2011). *Appreciative inquiry: Change at the speed of imagination* (Vol. 35). John Wiley & Sons.

Weber, M. (1968). *Economy and Society*. Ed. G. Roth and C. Wittich. Berkley and Los Angeles: University of California Press.

Weber, M. (1978). *Economy and society: An outline of interpretive sociology* (Vol. 1). Univ of California Press.

Weisburd, D., Waring, E., & Chayet, E. (1995). Specific deterrence in a sample of offenders convicted of white-collar crimes. *Criminology*, 33(4), 587-607.

Welch, C., Marschan-Piekkari, R., Penttinen, H., & Tahvanainen, M. (2002). Interviewing elites in international organizations: a balancing act for the researcher. *International Business Review*, 11(5), 611-628.

Welch, M. R., Xu, Y., Bjarnason, T., Petee, T., O'Donnell, P., & Magro, P. (2005). "But everybody does it...": The effects of perceptions, moral pressures, and informal sanctions on tax cheating. *Sociological Spectrum*, 25(1), 21-52.

Wenzel, M., & Jobling, P. (2005). Legitimacy of Regulatory Authorities as a Function of Inclusive Identification and Power Over Ingroups and Outgroups. Centre for Tax System Integrity Working Paper 64.

"When Banking Supervision Fails" (2018, March 25). TimesofMalta.com. Retrieved from <https://www.timesofmalta.com/articles/view/20180325/editorial/when-banking-supervision-fails.674388>.

White, M. D., Mulvey, P., & Dario, L. M. (2016). Arrestees' perceptions of the police: Exploring procedural justice, legitimacy, and willingness to cooperate with police across offender types. *Criminal Justice and Behavior*, 43(3), 343-364.

Wikström, P. O. H., Oberwittler, D., Treiber, K., & Hardie, B. (2013). *Breaking rules: The social and situational dynamics of young people's urban crime*. Oxford, UK: OUP.

Williams, B. A. O. (2005). *In the beginning was the deed: Realism and moralism in political argument*. Princeton, NJ; Princeton University Press.

Williams, K. R., & Hawkins, R. (1986). Perceptual research on general deterrence: A critical review. *Law & Soc'y Rev.*, 20(4), 545-572.

Winch, P. (1958). *The Idea of a Social Science*. London, UK: Routledge.

Wise, R. A. (2011). *Wise Quotes of Wisdom: A Lifetime Collection of Quotes, Sayings, Philosophies, Viewpoints and Thoughts*. Bloomington, IN: Author House.

Wolf, E.J., Harrington, K.M., Clark, S.L. and Miller, M.W. (2013). Sample size requirements for structural equation models: An evaluation of power, bias, and solution propriety. *Educational and psychological measurement*, 73(6), 913-934.

Woliver, L. R. (2002). Ethical dilemmas in personal interviewing. *PS: Political Science & Politics*, 35(4), 677-678.

Worden, R. E., & McLean, S. J. (2017). *Mirage of police reform*. University of California Press.

Worthington, R.L. and Whittaker, T.A. (2006). Scale development research: A content analysis and recommendations for best practices. *The Counseling Psychologist*, 34(6), 806-838.

Wrong, D. H. (2004). *Power Its Forms, Bases, and Uses*. New Brunswick, NJ; Transaction Publishers.

Ybema, J. F., van der Meer, L., & Leijten, F. R. (2016). Longitudinal relationships between organizational justice, productivity loss, and sickness absence among older employees. *International journal of behavioral medicine*, 23(5), 645-654.

Yeager, P.C. (2016), 'The elusive deterrence of corporate crime'. *Criminology & Public Policy*, 15, 439-451.

Zafar, A. (2017). MPs examine lack of women in finance (Retrieved from <https://www.ftadviser.com/your-industry/2017/10/20/mps-examine-lack-of-women-in-finance/>).

Zaloom, C. (2006). *Out of the pits: Traders and technology from Chicago to London*. University of Chicago Press.

Zartman, I. W. (1985), *Ripe for Resolution: Conflict and Intervention in Africa*. New York: Oxford University Press.

Appendix 1. Conceptualizations of Legitimacy in Criminology

Table 1. Studies adopting the Tylerian conceptualization of Legitimacy

Author(s)	Sample	Context	Legitimacy scale dimensions	Number of items in scale	Treatment of legitimacy	Deterrence variables	Main Findings
Tyler (1990)	n = 1,575 Chicago residents	Police	Obligation to obey Support		Independent variable affecting compliance with the law. Mediating variable between the independent variables of inter alia procedural justice, distributive justice and the dependent variables of compliance and cooperation	Yes	Legitimacy had a significant impact on compliance. Procedural justice was significantly related to legitimacy which in turn was found to affect compliance with the law. Deterrence did not have a significant impact on compliance.
Tyler and Rasinski (1991)	n = 636 U.S. residents	Courts	Obligation to obey	5	Mediating variable affecting intention to break the law	No	Legitimacy was found to mediate the relationship between the public's perceptions of

							fairness of the decision-making procedures of the Supreme Court and decisions of whether to breach the law.
Tyler and Huo (2002)	n = 1,656 Oakland and Los Angeles residents	Police	Obligation to obey Cynicism about the law Institutional trust Feelings about authorities	3 3 6 1	Legitimacy is treated as an independent variable affecting behaviour and as a dependent variable affect by inter alia quality of decision-making and the quality of treatment (aspect of procedural fairness).	No	Legitimacy had a positive and significant impact on compliance and help-seeking behaviour. Legitimacy was impact by the process-based variables of the quality of decision-making and the quality of treatment.
Sunshine and Tyler (2003)	n = 1,653 New York City residents in study 1	Police	Obligation to obey the law Institutional trust Affective feelings towards the police	4 9 6	Legitimacy was treated as a mediating variable between inter alia the independents variables of procedural	Yes – likelihood of being caught a punished measured with 3 items	In study 1 legitimacy had a significant impact on compliance, cooperation and empowerment with

	n = 1,653 New York City residents in study 1	Police	Obligation to obey the law Institutional trust Affective feelings towards the police	9 10	fairness, distributive fairness and effectiveness and the outcome variables of compliance with of cooperation with police, and empowering police.	<p>procedural fairness exerting the most significant effect on legitimacy. Distributive fairness had no effect on legitimacy.</p> <p>Both legitimacy and deterrence had a significant effect on compliance with legitimacy exerting a slightly stronger effect.</p> <p>In the second study legitimacy also had a significant effect on compliance, cooperation and empowerment. Legitimacy was mostly predicted by</p>
--	--	--------	--	---------	--	--

							<p>perceptions of procedural fairness and to a lesser degree by perceptions of distributive fairness.</p> <p>Both legitimacy and deterrence exerted a significant effect on compliance with legitimacy exerting a stronger effect.</p>
Tyler and Wakslak (2004)	<p>n = 586 young residents from New York City</p> <p>n = 1,653 New York City residents</p>	<p>Police</p> <p>Police</p>	<p>Obligation to obey Institutional trust Honesty Effectiveness</p> <p>Obligation to obey Trust/confidence</p>	<p>17</p> <p>9 8</p>	<p>Legitimacy is treated as a dependent variables affected by inter alia procedural fairness, distributive fairness, sanction risk trust.</p>	No	<p>Procedural justice considerations had the strongest impact on legitimacy for both non-white and white respondents with the exception of trust.</p> <p>The quality of treatment was</p>

							the strongest driver of legitimacy for both white and non-white participants. While the quality of decision-making had a stronger impact on legitimacy for non-white respondents than white respondents, trust had an equally strong impact.
Tyler, Callahan and Frost (2007)	n = 419 composed of 209 city and federal law enforcement officers and 210 soldiers	Police/Army	Obligation to obey	12	Legitimacy is treated both as a dependent variable influenced by inter alia procedural fairness and distributive fairness and as a independent variable affecting behaviour	No	In the law enforcement context legitimacy positively predicted following organizational rules, deference to rules but not following organizational rules. In the military context, legitimacy predicted all

							forms of rule-following behaviour. Procedural justice and not distributive fairness was the main driver of legitimacy in both police and armed forces contexts.
Tyler and Fagan (2008)	n = 830 New York City residents	Police	Obligation to obey Trust/confidence Identification with the police	10 7 9	Legitimacy is treated as an independent variable affecting cooperation with the police and helping the community as a dependent variable affected by inter alia procedural fairness	Yes – sanctioning risk	Legitimacy had a significant influence on cooperation with the police and helping the community. Procedural fairness were stronger predictors of legitimacy than distributive justice considerations. In wave 1 neither legitimacy nor risk had any significant

							<p>effect on helping the police; but legitimacy had a statistically significant effect on helping the community with risk having no effect.</p> <p>In wave 2 in contrast to wave 1, legitimacy had a statistically significant effect on helping the police and like wave 1, risk had no effect. In relation to helping the community both legitimacy and risk had strong effects with risk being more significant.</p>
Murphy, Hinds and Fleming (2008)	$n = 2,611$ Australian residents (cross-	Police	Effectiveness, confidence, and respect	4	Legitimacy is treated as an independent variable	No	In the cross-sectional study legitimacy and distributive

	sectional) <i>n</i> = 102 suburban Australian residents (panel)				affecting cooperation with the police and as dependent variables affected by inter alia procedural justice, distributive justice and police performance		<p>fairness were both found to exert significant positive effect on cooperation with legitimacy displaying the stronger effect. In contact, police performance reduced cooperation with the police.</p> <p>In the cross-sectional study, procedural fairness, distributive fairness and police performance were all significant predictors of legitimacy with procedural justice exerting the strongest effect.</p>
--	--	--	--	--	--	--	---

							<p>In the panel study, while legitimacy was found to predict cooperation with the police, police performance and distributive justice were unable to predict changes in cooperative behaviours.</p> <p>In the panel study, both procedural justice and distributive fairness were found to both positively predict cooperation with police performance having no effect.</p>
Reisig and Lloyd (2009)	<i>n</i> = 289 Jamaican high school students	Police	Obligation to obey	3	Legitimacy is treated as an independent variable	No	Procedural justice and not distributive justice was the

					affecting cooperation and as a dependent variable affected by inter alia procedural fairness and distributive fairness		strongest predictor of legitimacy. Legitimacy and distributive fairness had no significant influence on cooperation with the police with perceptions of procedural fairness exerting having a significant effect.
Tankebe (2009a)	n = 374 residents in Accra, Ghana	Police	Obligation to obey Trust	7 6	Legitimacy is treated as an independent variable affecting cooperation with the police	Yes – Perceived risk of being arrested and punished for breaking the law measured with two items.	Only the sub-scale of trust predicted cooperation with the police.
Elliott, Thomas and Ogloff (2011)	n = 110 people who had reported a crime in Australia	Police	Obligation to obey Trust	19	Legitimacy is treated as an outcome of procedural fairness	No	Procedural justice significantly predicted legitimacy.
Huq, Tyler and Schulhofer (2011)	n = 1,653 New York City residents	Police	Obligation to obey	6	Legitimacy is treated, as an dependent variable predicted by	No	Procedural justice significantly predicted legitimacy.

					procedural fairness, as an predictor of cooperation with the police and alerting the police and as a mediating variable between procedural fairness and behaviour.		Legitimacy also had a significant impact on cooperation with the police and willingness to alert the police. In additional, procedural justice predicted cooperation with the police and alerting the police through the mediating variable of legitimacy.
Reisig, Tankebe and Mesko (2012)	n = 683 high school students in Maribor and Ljubjana, Slovenia	Police	Obligation to obey Trust	2 2	Legitimacy is treated as an outcome of inter alia procedural justice and effectiveness and as a predictor of cooperation.	No	Procedural justice was the more significant predictor of legitimacy and while legitimacy predicted cooperation this effect was invariant when the cooperation measure was disaggregated.

							Further when the legitimacy scale was disaggregated only the sub-component of trust had a significant effect on cooperation with the police.
Reisig, Tankebe and Mesko (2014)	n = 683 young adults in Slovenia	Police	Obligation to obey Trust	2 2	Legitimacy is treated as an outcome of among other variables procedural justice and effectiveness and as a predictor of compliance.		Procedural fairness was the more significant predictor of legitimacy. Legitimacy also predicted compliance with the law
Muratbegović, Vujović, & Fazlić (2014)	n = 583 students from the Faculty of Law and Faculty of Criminal Justice, Criminology and Security Studies at the University of Sarajevo, Bosnia and	Police	Obligation to obey Trust	2 2	Legitimacy is treated as an outcome of procedural justice and predictor of self-reported compliance and cooperation.	Yes – perceived risk of getting caught and punishment measured with 6 questions	Legitimacy demonstrated a strong positive correlation with compliance but not with cooperation. Procedural justice was also positively and strongly correlated with legitimacy.

	Herzegovina						<p>Procedural justice also exhibited a stronger correlation with the trust component of legitimacy than the component of obligation to obey.</p> <p>Deterrence, similar to legitimacy strongly associated with compliance but not with cooperation.</p>
Pryce (2014)	n = 304 Ghanaian immigrants	Police	<p>Obligation to obey</p> <p>Trust</p> <p>Police legitimacy</p>	<p>4</p> <p>4</p> <p>4</p>	Legitimacy is treated as a dependent variable impacted by inter alia procedural justice and effectiveness and as an predictor of cooperation	No	Effectiveness was the more significant predictor of legitimacy and of cooperation.
Trinkner and Cohn (2014)	n = 322 New Hampshire students in 11 th grade	Police, parents and Teachers	<p>Obligation to obey</p> <p>Trust</p>	10	Legitimacy is treated as a mediating variable between	No	Legitimacy was found to mediate the relationship between

					procedural justice considerations and rule-violating behaviour.		procedural fairness and rule violations
Bradford (2014)	n = 1,017 young males who identified as a minority group in London	Police	Obligation to obey		Legitimacy is treated as mediating variable between procedural justice and intentions to cooperate with police	No	Among the UK group legitimacy fully mediated the relationship between perceptions of procedural fairness and intentions to cooperate.
Hertogh (2015)	n = 1,182 traffic offenders in the Netherlands	Traffic offences	Obligation to obey Support Law legitimacy	6 4 10	Legitimacy variables are treated as predictors of compliance with traffic laws (self-reported and observed compliance).	Yes – perceived likelihood of getting caught and punished measured with 5 items	Legitimacy variables all predicted self-reported compliance with traffic laws with law legitimacy being the most significant predictor. The sub-component of obligation to obey had a significant impact on observed compliance for those who had

							<p>received 3 or 4 tickets and 5 or 6 tickets but not for those who received 7 or more tickets. The sub-dimensions of support and law legitimacy has no effects on observed compliance.</p> <p>Deterrence had no impact on the outcome measures in this study</p>
Pryce (2016)	n = 304 Ghanaian residents in Alexandria, Virginia	Police	Obligation to obey Trust	4 3	Legitimacy is treated an independent variable affecting satisfaction with the police	No	Legitimacy of Ghana police reduced perceptions of satisfaction with US police.
Czapska, Radomska and Wojcik (2016)	n = 506 students in Poland	Police	Trust Obligation to obey	2 2	Legitimacy is treated as a dependent variable impacted by procedural justice and as an predictor of	No	Procedural justice was the most significant predictor of legitimacy but legitimacy is not predict cooperation.

					cooperation		
White, Mulvey and Dario (2016)	N = 2,262 arrestees in Maricopa county	Police	Obligation to obey	2	Legitimacy is treated as a dependent variable and as an one of the independent variables affecting cooperation with the police along with procedural fairness and as a mediator between procedural fairness and cooperation.	No	Procedural justice was the most significant predictor of police legitimacy. Both Legitimacy and procedural justice both predicted cooperation with procedural justice being the more significant predictor. Legitimacy also mediated the relationship between procedural fairness and cooperation.
Akinlabi (2017)	n = 305 students in Nigeria	Police	Obligation to obey Trust Legal cynicism	Not possible to determine	Legitimacy is treated as an outcome of inter alia procedural justice.		Procedural justice significantly predicted legitimacy although other variables were more significant (moral

							neutralization and political cynicism)
Sun, Wu, Hu, and Farmer (2017)	n = 1,000 residents in a Chinese city	Police	Obligation to obey	4	Legitimacy is treated as mediating variable between procedural fairness, distributive fairness and effectiveness and cooperation with the police	No	Legitimacy was a better mediator for distributive fairness and effectiveness than procedural fairness.

Table 2. Studies adopting the Jackson et al., (2011; 2012) conceptualizations of Legitimacy

Author(s)	Sample	Context	Legitimacy scale dimensions	Number of items in scale	Treatment of legitimacy	Deterrence variables	Main Findings
Jackson et al., (2011)			Obligation to obey Moral alignment Legality				
Jackson, Bradford, Hough, Myhill, Quinton and Tyler (2012)	n = 937 adults in England and Wales	Police	Moral alignment Obligation to obey the police	3 3	Several pathways were hypothesized including trust in police procedural justice and trust in police effectiveness as predictors	Yes – perceived risk of sanction	Trust in procedural fairness did not predict obligation to obey the police but predicted moral alignment.

					of legitimacy and legitimacy scales as predictors of offending behaviour.		Trust in procedural fairness predicted both obligation to obey and moral alignment with the stronger effect being seen for trust in procedural fairness. While obligation to obey the did not predict offending behaviour, moral alignment reduced offending behaviour. Perceived risk of sanction did not have a statistically significant effect on reducing offending behaviour
Hough et al., (2013)	n = 52,041 interview from the European		Obligation to obey Moral alignment Legality		Several pathways were hypothesized including trust	Yes – perceived risk of sanction	Trust in procedural fairness, trust in

	Social Survey				in procedural justice, trust in distributive fairness and trust in effectiveness as predictors of legitimacy and legitimacy scales as predictors of offending behaviour.		effectiveness and trust in distributive fairness were all significant predictors of obligation to obey and moral alignment and legality, albeit with varying levels of significance. Legality, deterrence, and moral alignment demonstrated significant and negative effects on offending behaviour with obligation to obey showing no significant effect.
Jackson, Huq, Bradford and Tyler (2013)	n = 1,017 London residents	Police	Obligation to obey Moral alignment Legality	4	Legitimacy is treated an independent variable that affects views about violence and as a dependent variable	No	Legitimacy mediated the association between perceptions of procedural justice and views about violence.

					impacted by procedural justice considerations		
Tyler and Jackson (2014)		Police Courts	Obligation to obey the law Obligation to obey the police Obligation to obey the courts Trust in the law Trust in the police Trust in the courts Normative alignment with the law Normative alignment with the police Normative alignment with the courts	9 4 4 3 5 6 4 6 2	Legitimacy is treated an independent variable that affects compliance, cooperation with legal authorities and community engagement and as a dependent variable impacted by inter alia procedural justice considerations and effectiveness.	No	Legitimacy had a significant and positive impact on compliance (both minor crimes and major crimes). Legitimacy also reduced the likelihood of engaging in self-defense acting and increased cooperation with the police. The sub-dimension of obligation to obey significantly predicted both compliance and cooperation with the stronger effect being demonstrated for compliance

							<p>yet obligation to obey had no significant impact on engagement. The sub-dimension of trust also did not have a significant on engagement but showed a positive and significant impact both on compliance and cooperation with a stronger effect being demonstrated for cooperation. And the sub-dimension of normative alignment, while predicting both cooperation and engagement did not predict compliance.</p> <p>Fairness in the</p>
--	--	--	--	--	--	--	--

							quality of decision making was a significant predictor of the sub-scale of trust did not predict obligation to obey, normative alignment or the composite legitimacy measure. However, the quality of treatment was a significant predictor of the composite measure and of all three sub-scales. And effectiveness, predicted the composite measure and the sub-scales of obligation to obey and normative alignment but not trust.
Tyler, Fagan and Geller (2014)	n = 1,261 New York City residents	Police	Trust/confidence Obligation to obey Moral alignment	34	Legitimacy is treated as an outcome of procedural	No	Procedural fairness significantly predicted

					justice and predictor of cooperation.		legitimacy which in turn predicted cooperation.
Reisig and Bain (2016)	n = 502 university students attending Arizona State University	University Students	Normative Alignment Obligation to obey Trust	3 6 5	Legitimacy is treated as a predictor of compliance with university rules	No	Legitimacy sub-scales and as an aggregate scale predicted compliance with rules against cheating but not rules against plagiarism
Bradford, Hohl, Jackson and MacQueen (2015)	n = 816 drivers in Scotland	Police	Obligation to obey Moral alignment	6	Legitimacy is regarded as a outcome of inter alia procedural justice and as predictor of compliance	No	Procedural fairness was a significant predictor of legitimacy but legitimacy did not predict compliance.
Van Damme and Pauwels (2016)	n = 1659 students university or college students in Ghent	Police	Legitimacy of the police - Moral Alignment Obligation to obey Legitimacy of the law – obligation to obey the law	4 4 4	Legitimacy of the police is treated as an outcome of procedural fairness and effectiveness, in turn affecting the legitimacy of the law which in turn may affect	No	Perceived procedural justice and effectiveness both predicted moral alignment with procedural justice exerting a stronger effect.

					compliance with the law.		Procedural fairness exhibited a slightly stronger effect that effective on obligation to obey. Both moral alignment and obligation to obey the police demonstrated positive and significant effect on the obligation to obey the law with a stronger effect shown for normative alignment. Perceived legitimacy of the law in turn had a significant impact on cooperation.
Akinlabi and Murphy (2018)	n = 600 individuals from south west Nigeria	Police	Normative alignment Obligation to police		Legitimacy is treated both as a independent variable affecting self-reported compliance	No	Legitimacy did not predict self-reported compliance with the law and procedural

					with the law and as outcome of inter alia procedural justice		justice did not predict legitimacy.
--	--	--	--	--	---	--	---

Table 3. Studies adopting the Bottoms and Tankebe (2012;2017) conceptualization of Legitimacy

Author(s)	Sample	Context	Legitimacy scale dimensions	Number of items in scale	Treatment of legitimacy – independent or mediating variable	Deterrence variables	Main Findings
Bottoms and Tankebe (2012, 2017)	N/A	Police	Lawfulness Procedural Fairness Distributive Fairness Effectiveness	N/A	Legitimacy is treated an independent variable affecting compliance and cooperation.		
Tankebe (2013)	n = 5,120 London residents	Police	Lawfulness Procedural Fairness Distributive Fairness Effectiveness	2 5 2 7	Legitimacy variables are treated as independent predictors of cooperation with the police	No	Tankebe found that: (i) legitimacy (as an aggregated scale) was a significant predictor of cooperation with the police; (ii) procedural justice and distributive justice were significant predictors of cooperation with the police; (iii) similar to

							Murphy and Cherney (2012), lawfulness was an important predictor of cooperation with the police; (iv) perceived police effectiveness <i>reduced</i> cooperation with the police; and (iv) obligation to obey mediated the relationship between the aggregated legitimacy scale and the individual components of legitimacy.
Tankebe, Reisig and Wang (2016)	n = 516 students at a university in the U.S. n = 428 students at a university in Ghana	Police	Lawfulness Procedural Fairness Distributive Fairness Effectiveness		Legitimacy is treated as an independent variable affecting compliance and cooperation	No	Regarding the outcome of cooperation with the police, Tankebe et al.'s (2016)

							<p>study was largely consistent with the results obtained from the London data in that legitimacy (as an aggregated scale) predicted cooperation with the police and that obligation to obey mediated the relationship between legitimacy and cooperation. Concerning the outcome of compliance with the law, the findings from the U.S. sample were also similar to the results obtained in</p>
--	--	--	--	--	--	--	--

							the London data. The Ghana data showed that while legitimacy was significantly related to compliance with the law, obligation to obey did not mediate the relationship between legitimacy and compliance.
Liu and Liu (2018)	n = 711 high school students in China	Police	Procedural fairness Effectiveness Shared values (lawfulness) Distributive fairness	3 1 1 1	Legitimacy is treated as a predictor of compliance	No	Only distributive fairness was a strong predictor of compliance.
Tankebe (2019a)	n = 530 young adults at a Ghanaian University	Police	Police unlawfulness Procedural fairness Effectiveness	3 5 4	Legitimacy variables treated as predictor of cooperative intentions	Yes – certainty and severity of punishment measured with 6 and 4 items respectively	Experiences of police unlawfulness and perceptions of certainty of punishment showed significant and negative

							effects on cooperative intentions.
--	--	--	--	--	--	--	--

Table 4. Studies measuring legitimacy in workplace, taxation and organizational contexts

Author(s)	Sample	Context	Legitimacy scale dimensions	Number of items in scale	Treatment of legitimacy	Main findings
Tyler (1997)	Workplace	Sample 1 <i>N</i> = 409 managers in California	Obligation to obey	3	Dependent variables affected by inter alia relational or instrumental concerns	Legitimacy was predicted by relational judgments but not by instrumental concerns.
			Willingness to accept authority	2		
			Favourability of evaluations	7		
		Sample 2 <i>N</i> = 305 employees at a public sector organisations in Northern California	Obligation to obey	5		Legitimacy was predicted by both relational and instrumental concerns but with the greater impact accorded to relational concerns.
			Willingness to accept authority	4		
			Favourability of evaluations	3		
Kuperan and Sutinen (1998)	<i>N</i> = 318 Malaysian fishermen	Regulatory	Outcomes of regulation	6	Legitimacy is treated as an independent variable affecting compliance with fisheries regulations	When groups felt the outcomes of regulation favoured one group over the other this reduced legitimacy perceptions among the disadvantaged
			Aspects of regulatory procedures	6		

						group leading to reduced compliance. Regulatory violators who perceived that enforcement of regulatory violations was adequate were more likely to non-comply.
Tyler and Blader (2000)	Workplace	n = 404 employees	Obligation to obey	6	Legitimacy is treated as independent variable affecting compliance, in-role behaviour, deference and extra-role behaviour	Legitimacy predicted deference and compliance with equal levels of significance but with stronger impact shown for deference. Legitimacy had no significant impact on
Murphy and Sakurai (2001)*	Taxation	n = 2,040 Australian taxpayers	Obligation to obey Willingness to accept authority Favourability of evaluations	Not possible to determine	Independent variables affecting aggressive tax planning	Legitimacy had no effect on aggressive tax effect on aggressive tax
Murphy and Byng	n = 6000 Australian	Taxation	Favourability of evaluations		Variable capturing	

(2002)*	taxpayers		Obligation to obey		views about tax office	
Wenzel and Jobling (2005)*	n = 965 Australian residents	Taxation	Obligation to obey	7	Legitimacy is treated as a dependent variable.	In study 1 respondents who identified less strongly with the inclusive category (Australians) perceived the tax authority to be more legitimate the when it exercised effective power over the outgroup. In study 2 respondents who identified less strongly with the inclusive category (Australians) perceived the tax authority to be more legitimate the when it appeared lenient towards the ingroup. However, respondents
	n = 4000 Australian citizens	Taxation	Perceived fairness Favourability towards authority Trust	9		

						who identified strongly with the inclusive category perceived the tax authority to be more legitimate the when it used its powers consistently vis-à-vis both groups.
Murphy (2005)*	<p>Study 1(cross-sectional) n = 2,292 Australian tax scheme investors</p> <p>Study 2 (longitudinal) n = 659 Australian tax scheme investors</p>	Taxation	<p>Favourability of evaluations Obligation to obey</p> <p>Favourability of evaluations Obligation to obey</p>	<p>Unclear</p> <p>Unclear</p>	<p>Legitimacy is treated as an mediating variable between inter alia perceptions of procedural fairness and outcome favourability and the behavioural and attitudinal outcomes</p>	<p>Study 1 Legitimacy was predicted by both procedural justice and outcome favourability with the former exerting the stronger effect. Procedural justice also significantly predicted obligation to obey but no effect was found for outcome favourability. Legitimacy and obligation</p>

						<p>to obey in turn reduced resistance towards the tax authority and while obligation to obey reduced tax evasion behaviour no effect was found for legitimacy.</p> <p>In study 2, procedural justice predicted both legitimacy and obligation to obey. While outcome favourability predicted legitimacy it did not predict obligation to obey. And procedural fairness was the stronger predictor of legitimacy and obligation to obey. Legitimacy and obligation to obey had</p>
--	--	--	--	--	--	---

						significant effects on reducing resistance towards the tax authority with the more significant effect reported for legitimacy but neither legitimacy nor obligation to obey significantly predicted tax evasion .
Tyler and Blader (2005)**	n =540 employees of a large financial services company in the U.S.	Workplace	Obligation to obey	8	Legitimacy is treated as an antecedent of compliance with organisational policies, deference to organisational policies and rule-breaking.	Legitimacy had a significant effect on compliance with organisational policies, deference to such policies and a rule-breaking.
	n = 4,430 employees from a range of organisations	Workplace	Obligation to obey	6		
Murphy, Tyler and Curtis (2009)	n = 652 Australian taxpayers	Taxation	Legitimacy of the law - moral values	3	Legitimacy is treated as a moderating variable between procedural fairness and self-reported compliance	Legitimacy moderated the effect between perceptions of procedural fairness and tax - compliance Legitimacy

					behaviour and as a independent variable affecting the motivational posture of commitment	was also a significant predictor of commitment with the tax authority.
Levi, Sacks and Tyler (2009)	<i>N</i> = 23,909 African taxpayers	Taxation	Obligation to obey	3	Legitimacy is treated as an outcome of trustworthiness (performance and competence) and procedural justice.	Elements of procedural justice and trustworthiness predicted willingness to obey tax authorities
Vainio (2011)*	<i>N</i> = 460 Finnish Forest owners	Regulatory	Obligation to obey Trust	4 4	Legitimacy was treated as an outcome of procedural justice and uncertainty and as a predictor of satisfaction with decisions.	Procedural justice predicted legitimacy which in turn predicted satisfaction of decisions.
Ntayi et al., (2012)	<i>N</i> = 110 public procurement disposing entities Regulatory	Regulatory	Obligation to obey Trust	8 total	Legitimacy is treated in many ways but primarily as an outcome procedural justice and as a predictor regulatory compliance	Procedural justice significantly predicted regulatory legitimacy and legitimacy significant predicted regulatory compliance

Feldman and Tyler (2012)	N = 599 Israeli employees	Workplace	Obligation to obey	5	Legitimacy is treated as an outcome of inter alia procedural justice considerations.	Procedural justice did not predict legitimacy.
Van Der Toorn et al., (2014)***	N = 1,530 U.S. employees	Workplace	Obligation to obey	3	Legitimacy is treated as an outcome of inter alia procedural justice	Procedural justice was found to significantly predict legitimacy.
Murphy, Bradford and Jackson (2016)****	n = 359 tax offenders	Taxation	Obligation to obey Respect	4	Legitimacy is treated as a mediating variable affecting the relationship between procedural fairness and tax compliance	Legitimacy was found to mediate the relationship between procedural fairness and tax compliance
Gobena and Van Dijke (2016)*****	N = 231 small and large businesses	N = 231 small and large businesses	Performance of functions	5	Legitimate power is treated as a moderator between when examining the relationship between procedural fairness, trust and voluntary tax compliance	Legitimate power moderated the relationship between procedural fairness and voluntary tax compliance because of the mediating variable of cognition based trust. Also the

						relationship between cognition based trust and tax compliance was moderated by legitimate power.
Rorie, Simpson, Cohen and Vanderbergh (2018)	<p>Offending scenarios $N = 879$ professionals and managers knowledgeable about environmental regulation</p> <p>Beyond compliance scenarios $N = 586$ professionals and managers knowledgeable about environmental regulation</p>	Regulatory	<p>Adequacy of law Obligation to obey</p> <p>Obligation to obey</p>	<p>1 2</p> <p>2</p>	<p>Legitimacy is treated as a predictor of corporate intentions to offend</p>	<p>Legitimacy had little effected on offending scenarios and no effect on beyond-compliance scenarios.</p> <p>Participants who felt that they should comply with a law even if went against their personal morality then they were less likely to ignore a compliance order but this had no effect on discharge of toxins or mislabelling waste. Those who felt that they should comply with</p>

						the law so long as the law go against their personal morality were also less likely to disobey a compliance order but this item had no effect on other forms of offending. The statement measuring the extent to which an individual should act as others do had no effect on offending intentions
NOTE *Items adapted from Tyler (1997) **Items adapted from Tyler and Blader (2000) ***Items adapted from Tyler (2006) ****Items						

adapted from Tyler (1990) *****Items adapted from Kastlunger Lozza, Kirchler, and Schabmann (2013)						
---	--	--	--	--	--	--

Appendix 2. Qualitative Stage – Interview Schedule, Note to Participants, Participant Information Sheet and Informed Consent Form

Appreciative Inquiry Interview Schedule (Researcher Version)

1. To begin, can you tell me what attracted you to the financial services industry? *What do you value about the industry and why?*
2. Have you ever thought about leaving the financial services industry? *Why? What has invigorated you to stay in this industry?*
3. Can you tell me a bit about your role/function in the organization? *What are your duties? What do you do on a day-to-day basis?*
4. Can you explain the functions/roles of [a director/chief compliance officer/chief financial officer/chief operations officer/chief executive officer?]
How far have these functions/roles changed over the years?
5. How do you convince yourself that the powers granted to you as [a director/chief compliance officer/chief financial officer/chief operations officer/chief executive officer] are morally right? How you do self-justify the powers granted to you as [a director/chief compliance officer/chief financial officer/chief operations officer/chief executive officer]?
6. What in your opinion makes a good [a director/chief compliance officer/chief financial officer/chief operations officer/chief executive officer?]
7. Are there instances when you doubted whether your role as [a director/chief compliance officer/chief financial officer/chief operations officer/chief executive officer] is at all necessary? *What are those instances? What has invigorated you to continue in your role?*
8. What do you understand the roles/functions of the MFSA to be? *How well/effective is the MFSA performing these roles/functions? What are the reasons for this effectiveness/ineffectiveness? How can the MFSA play these roles/functions effectively?*
9. Why do you believe it is right or proper for the regulator to have the powers that is has? What in your view makes the powers of the regulator right or proper? What in your view justifies the powers of the regulator?
10. What powers should the regulator have? How should those powers be applied?
11. How do you or your colleagues perceive the MFSA? To what extent has your perception of the MFSA changed over the years?
12. What are some of the things you expect from the MFSA? *Why are these things important? How well is the MFSA meeting these expectations?*
13. What in your opinion makes a good regulator?

14. What sort of interactions have you had with the MFSA? *What were your feelings about how the MFSA treated you? What positive/negative qualities did staff display? What could have been done differently? How has this experience affected your perceptions towards the MFSA? How has this experience shaped future interactions with the MFSA? How common is this experience? Have your colleagues had similar experiences?*
15. Can you tell me about an experience you had with the MFSA that was particularly good? *What happened? Who was involved? What made it a good experience? How had this experience affected your perceptions/attitudes towards the MFSA? How has this experience shaped the way you deal with the MFSA? How has this experience affected the way you interact with the MFSA? How common is this experience? Have your colleagues had similar experiences?*
16. Can you tell about an experience you had with the MFSA that did not go well? *What happened? Who was involved? Why did it not go well? How did you feel about this experience? How has this incident affect your perceptions/attitudes towards the MFSA? How has this experience shaped the way you deal with the MFSA? How common is this experience? Have your colleagues had similar experiences?*
17. What do you think constitutes a good (or right) relationship between companies and the MFSA?
18. How important is it for the MFSA to have a good (or right) relationship with companies?
19. Are there certain things that you believe the MFSA should avoid altogether when dealing with companies such as yours? Why is it important for the MFSA to avoid such things?
20. Do you trust the regulator? Why? What makes a regulator trustworthy or untrustworthy?
21. Does the regulator trust companies such as yours? Why?
22. To what extent do you share the same values as the company?
23. To what extent do you and companies like yours share similar values about the financial services industry?
24. To what extent do you and companies like yours share similar values about the MFSA?
25. To what extent do you think that the MFSA acts in a manner that is consistent with your notions and the company's notions of what is right or wrong? To what extent do you perceive that the MFSA shares the same values as you and the company?

26. If you were in a position to advise the MFSA on how to build good relationships with regulated entities what would be your suggestions/issues you would prioritize?
27. Is there something else you wish to discuss about the MFSA that we haven't talked about?

Email sent to participant inviting them to participate in interview

Dear [insert name of participant]

I trust that you are doing well.

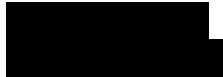
I believe [insert name of referral source] spoke to you regarding my PhD project. It would be great if we could meet up so I could ask you some questions for the interview stage of the PhD project. This would be of tremendous aid. I am very flexible for timing over the next two weeks.

In connection with the proposed meeting I attach herewith the following three documents: (i) a brief explanation of the PhD project; (ii) a participant information sheet and informed consent form; and (iii) an interview schedule.

I look forward to hearing from you.

Best wishes,

Matthew Muscat
Ph.D. Student
Institute of Criminology – Cambridge



Brief explanation about Ph.D. research

Dear [insert name of participant],

I am reading for a Ph.D. in Criminology at Cambridge University's Institute of Criminology. I had previously graduated with an LL.D. from the University of Malta, an LL.M. from the University of London, an M.C.J. from Boston University and an M.Phil. in Criminological Research from Cambridge University.

In order to complete the Ph.D. at the Institute of Criminology, I am required to submit a dissertation on a subject pertinent to the study of criminology. The working title for this dissertation is "Basic Legitimation Demands in the Maltese Financial Services Sector". This dissertation seeks to address the following four research questions: (i) what is the nature of regulatees' experiences with the Malta Financial Services Authority (the MFSA)?; (ii) what do regulatees expect from the MFSA?; (iii) how do regulatees respond to a failure to meet those expectations?; and (iv) what is the relationship between the perceived legitimacy of the MFSA and the behavioural outcomes of compliance and cooperation? The first three research questions will be addressed through an inductive approach by conducting interviews. The fourth research question will be addressed via a deductive approach that entails the development and administration of a regulatory legitimacy survey informed by interviews.

At this stage of the research I am concerned with addressing the first three research questions. For the purposes of aiding the researcher to address these questions you are being invited to take part in an interview. This is voluntary.

Attached are the following two documents:

1. A participant information sheet; and
2. An informed consent sheet.

Please read the attached documents and do not hesitate to ask the researcher for any help.

Many thanks,

Matthew Muscat
Ph.D. Student
Institute of Criminology – Cambridge

PARTICIPANT INFORMATION SHEET

Ph.D. Title

Basic Legitimation Demands in the Maltese Financial Services Sector

Purpose of Interview

This interview seeks to: (i) explore the nature of your experiences with the MFSA; (ii) identify your expectations of the MFSA; and (iii) to explore how your experiences with the MFSA shape future interactions with the regulator. The interview findings will be aggregated with those of other participants and will be employed to develop a regulatory legitimacy survey that seeks to measure the legitimacy of the MFSA as perceived by licensed financial market participants and to examine the relationship between the perceived legitimacy of the MFSA and the behavioural outcomes of compliance and cooperation.

Participation

Your participation is **completely voluntary**, and you are free to withdraw your participation at any time without giving any reason. There are no direct foreseeable benefits to you in participating, nor are there any foreseeable harms.

Confidentiality and Anonymity

All information you provide will be **anonymous**. None of the information that you provide can be linked to you and it is for this reason that I will not ask questions about your name, age, gender, residential address, marital status or educational attainment. This is to make it impossible for anyone to identify you in my Ph.D. dissertation. In addition, the records of this study will be kept **private** and **confidential**. Although it would be extremely valuable to audio-record interview, you are free to decline. However, any audio-recording will be destroyed after it has been transcribed. The transcripts will be stored securely and anonymously on a computer that is password protected. Access to the data will be restricted to the researcher and to his supervisor.

In the light of the great efforts to protect your privacy, please provide **honest** and **complete** answers to the interview questions.

Additional issues

The interview should last around 90 minutes. If you would like to have anything explained please do not hesitate to ask the researcher. Any questions relating to the research study or your participation in the interview will be answered by Matthew Muscat ([REDACTED])

Thank you very much for your assistance and participation.

INFORMED CONSENT FORM

Please complete this form by checking the boxes

Ph.D. Title – Basic Legitimation Demands in the Maltese Financial Services Sector

Name of Researcher:

1. I confirm that I have read and understood the participant information sheet and have had an opportunity to ask questions. ☐
2. I understand that my participation is voluntary and that I am free to withdraw at any time. ☐
3. I understand that I will participate in an interview, which will be recorded and subsequently transcribed. ☐
4. I understand that the interview transcript may be looked at by the researcher's supervisor (Dr. Justice Tankebe), where it is relevant to my taking part in the research. ☐
5. I understand that in the researcher's Ph.D. dissertation no real names or other identifying information about me or others will be used. ☐
6. I agree to take part in this interview. ☐

Name of Participant

Date

Signature

Researcher

Date

Signature

Appendix 3. List of Interviewees

Interviewee	Dominant	Role in Financial Services Sector	Venue	Date contacted by referee	Date contacted by MM	Date interviewee responded	Interview Date	Length of recorded interview (hours/minutes/seconds)*
Pilot								
1. Brutus	Yes	Former managing director – Insurance	Board room in office	4 April 2017	4 April 2017 via telephone		5 April 2017	47:36
2. Kent	No	Lawyer – Funds	Office	4 April 2017	4 April 2017 via telephone		7 April 2017	1:22:44
3. Albany	Yes	Former CEO – Banking	House of interviewee	4 April 2017	4 April 2017 via telephone		11 April 2017	1:44:39
4. Romeo	Yes	Compliance officer – investment services	Board room in office	5 April 2017	6 April 2017 via telephone		11 April 2017	58:15
5. Othello	Yes	Former – Chairman Banking	House of interviewee	6 April 2017	6 April 2017 via telephone	7 April 2017	11 April 2017	1:00:16
6. Antony	Yes	Former Chairman – Banking	Office	4 April 2017	5 April 2017 via telephone	5 April 2017	13 April 2017	52:59
7. Caesar	Yes	Former CEO – Banking	Office	6 April 2017	6 April 2017	8 April 2017	18 April 2017 26 April 2017	49:15 24:23
8. Mercutio	Yes	Former non-executive director – Banking	Office	17 April 2017	18 April 2017	18 April 2017	26 April 2017	1:11:18
9. Tybalt	Yes	Partner at law firm/director – investment services	Office	3 May 2017	3 May 2017	3 May 2017	11 May 2017	1:00:02
10. Vincentio	Yes	Partner at law firm/director - Trusts	Board room in office	8 May 2017	8 May 2017	11 May 2017	18 May 2017	1:15:42
Substantive								
11. Macbeth	Yes	Chairman – Banking	Board room in office House of interviewee	30 June 2017	3 July 2017 25 July 2017 via telephone	3 July 2017	5 July 2017 1 August 2017	1:18:18 37:28

			wee					
12. Banquo	Yes	CEO – Banking	Office	30 June 2017	3 July 2017	3 July 2017	6 July 2017	1:02:45
13. Polonius	Yes	Director – Insurance	House of interview wee	4 July 2017	4 July 2017	4 July 2017	6 July 2017	1:38:00
14. Lysander	Yes	Lawyer – Banking	Office	30 June 2017	3 July 2017	4 July 2017	7 July 2017	58:14
15. Prospero	Yes	Managing Director – Trusts	House of interview wee	7 July 2017	7 July 2017 12 July 2017 17 July 2017	7 July 2017 12 July 2017 17 July 2017	9 July 2017 30 July 2017	1:34:43 1:09:00
16. Angelo	Yes	Company Secretary - Insurance	Office	3 July 2017	3 July 2017	3 July 2017	10 July 2017	1:00:02
17. Theseus	No	CEO – Banking	Office	30 June 2017	3 July 2017	3 July 2017	11 July 2017	50:23
18. Oberon	Yes	CEO – Banking	Office	30 June 2017	3 July 2017	5 July 2017	12 July 2017	1:09:26
19. Laurence	Yes	Lawyer/Director/Compliance officer – Investment services and Funds	Office	4 July 2017	7 July 2017	7 July 2017	13 July 2017	1:24:57
20. Gloucester	Yes	Chairman – Banking	Board room in office	10 July 2017	10 July 2017	10 July 2017	14 July 2017	53:06
21. Puck	No	Director – Corporate Service Provider	House of interview wee		14 July 2017	14 July 2017	14 July 2017	24:52
22. Caliban	No	CEO – Insurance	Office	3 July 2017	3 July 2017	6 July 2017	17 July 2017	46:50
23. Demetrius	Yes	Director – Insurance	Board room in office	3 July 2017	3 July 2017	3 July 2017 12 July 2017	18 July 2017	51:21
24. Gertrude	Yes	Director – Insurance	Office	4 July 2017	7 July 2017	7 July 2017	18 July 2017	26:06
25. Edgar	No	Director – Corporate Service Provider	Office	13 July 2017	13 July 2017	15 July 2017	19 July 2017	30:50
26. Claudius	Yes	Director – Corporate Service Provider	Office	4 July 2017	7 July 2017	7 July 2017	19 July 2017	1:43:54
27. Cassio	No	Director – Corporate Service Provider	Board room in office	13 July 2017	13 July 2017	14 July 2017	20 July 2017	1:01:23
28. Escalus	Yes	CEO – Banking	Board room in	10 July 2017	10 July 2017	10 July 2017	20 July 2017	39:48

			office					
29. Octavius	No	Director – Trusts	Office	13 July 2017	13 July 2017	13 July 2017	21 July 2017	1:06:59
30. Malvolio	Yes	Partner – accounting and auditing firm	Board room in office	18 July 2017	18 July 2017	19 July 2017	24 July 2017	26:03
31. Benvolio	Yes	Partner at law firm/direct or – investment services and funds	Board room in office	13 July 2017	14 July 2017	17 July 2017	24 July 2017 9 August 2017	54:42 57:08
32. Portia	No	Partner at law firm – investment services and funds	Office	21 July 2017	21 July 2017	21 July 2017	25 July 2017	37:16
33. Montague	No	CEO – accounting and auditing firm	Board room in office	18 July 2017	19 July 2017	19 July 2017	26 July 2017	47:04
34. Reagan	Yes	Partner – accounting and auditing firm	Board room in office	10 July 2017	10 July 2017	10 July 2017	26 July 2017	56:44
35. +36. Bassanio and Gratiano	No	Compliance Officer and Money Laundering Reporting Office – Banking	Board room in office	30 June 2017	3 July 2017	4 July 2017	28 July 2017	44:14
37. Macduff	No	Compliance Officer – Investment services and Funds	House of interviewer		12 July 2017	13 July 2017	29 July 2017	1:21:58
38. Cornwall	Yes	Director – Investment services and Funds	Office	21 July 2017	21 July 2017	22 July 2017	2 August 2017	54:38
39. Brabantio	No	Director – Insurance	Board room in office	19 July 2017	21 July 2017	21 July 2017	2 August 2017	40:41
40. Lucio	Yes	Compliance Officer – Investment services and Funds	Board room in office	25 July 2017	25 July 2017	25 July 2017	3 August 2017	1:12:29
41. Laertes	No	Partner – accounting and	Board room in office	18 July 2017	19 July 2017	31 July 2017	4 August 2017	33:16

		auditing firm						
42. Donalbain	No	Partner in law firm/direct or – insurance	Office	26 July 2017	26 July 2017	Responded via telephone on 26 July 2017	4 August 2017	55:54
43. Messala	No	Director – Corporate Service Provider	Board room in office	14 July 2017	17 July 2017	31 August 2017	4 August 2017	28:56
44. Cordelia	No	Lawyer – Banking	Board room in office	2 August 2017	7 August 2017	7 August 2017	9 August 2017	23:07
45. Iago	No	Lawyer – Banking	Board room in office	2 August 2017	7 August 2017	7 August 2017	9 August 2017	32:41
46. Rosaline	Yes	Compliance office – insurance	Board room in office	20 July 2017	21 July 2017	31 July 2017	11 August 2017	1:10:18
47. Coriolanus	No	Partner at law firm – banking	Office	27 July 2017	27 July 2017	27 July 2017	11 August 2017	29:09
48. Lear	Yes	CEO – insurance	House of interviewer	5 April 2017	5 April 2017 via telephone		14 August 2017	1:54:55
49. Juliet	No	Partner at law firm/direct or – banking	Office	25 July 2017	25 July 2017	7 August 2017	21 August 2017	45:07
<p>* NOTE: Meetings with participants actually lasted longer than the recorded times. This was for several reasons. First, the recorder was only turned on when I obtained the interviewee's consent. Prior to this I engaged in general conversation with interviewees (exchanging pleasantries, talking about the weather, talking about the financial services sector, mentioning common connections and explaining the background to the Ph.D. and what the research seeks to achieve). Second and in two cases, participants asked me to switch off the recorder to tell me confidential information. Third, after the interview was concluded, I spoke for a short while with participants about my plans for the future including the next stage of the research.</p>								

Appendix 4. Legitimacy dimensions, obligation to obey, motivational postures and deterrence questions.

Lawfulness: the extent to which operators perceive that the MFSA acts according to law.

Item no.	Item	Coding
30.	The MFSA sometimes abuses its powers	RC
9.	When the MFSA deals with operators it always acts according to law*	
19.	In dealing with operators, the MFSA exercises its powers in good faith	
16.	The MFSA and its staff act as if they are above the law	RC
	* Adapted from Tankebe (2013)	

Legal certainty: the extent to which operators perceive that MFSA are clear. This includes whether the MFSA has unwritten rules and arbitrarily creates rules.

Item no.	Item	Coding
74.	Rules published by the MFSA are not always clear	RC
80.	The MFSA has a lot of unwritten rules and policies	RC
82.	The MFSA arbitrarily creates rules and policies	RC
7.	The MFSA clearly explains what it expects from operators	
33.	The MFSA is transparent and open about its rules and policies	
6.	The MFSA does not provide clear guidance to guide operators	RC

Quality of decision-making: the extent to which operators perceive that the MFSA in its decision-making process gives reasons for decisions, is transparent, honest, consistent, and fair.

Item no.	Item	Coding
11.	The MFSA's decision-making process is open and transparent	
32.	There is a lot of inconsistency in the actions of the MFSA*	RC
71.	The MFSA clearly explains its reasons when giving decisions	
21.	Staff at the MFSA are honest**	
42.	The MFSA <i>does not</i> treat all operators equally*	RC
56.	The MFSA <i>does not</i> apply the law fairly	RC
53.	The MFSA uses rules and procedures that are fair to everyone*	
62.	The MFSA <i>does not</i> provide opportunities for unfair decision to be corrected*	RC
75.	The operator is allowed sufficient opportunity to explain its position before the MFSA takes a decision*	
27.	An ongoing dialogue exists between the MFSA and operators	
46.	The MFSA does not regularly consult the industry	RC
	* Items adapted from Sunshine and Tyler (2003) ** Item adapted from Liebling, Hulley and Crewe (2012)	

Quality of treatment: the extent to which operators perceive the MFSA to treat them fairly and with respect. This also includes the extent to which operators perceive the MFSA to be helpful.

Item no.	Item	Coding
37.	The MFSA treats operators fairly	
45.	The MFSA and its staff treat operators with respect*	

20.	The MFSA does not keep an open mind when dealing with operators	RC
10.	I find the attitude of MFSA staff to be hostile	RC
59.	The MFSA helps operators when they have regulatory issues*	
65.	Staff at the MFSA are willing to support the operator	
51.	I feel that the MFSA gives operators appropriate guidance	
	* Items adapted from Sunshine and Tyler (2003)	

Impartiality: the extent to which operators perceive that the MFSA acts impartially and maintains a correct distance from the industry.

Item no.	Item	Coding
4.	The MFSA is controlled by politicians	RC
41.	The MFSA acts without fear or favour	
28.	Things only go your way if you know the right people at the MFSA	RC
64.	The MFSA is too close to some operators	RC
54.	There is too much informality in the relationship between the MFSA and operators	RC

Access and Approachability: the extent to which the MFSA is able to be reach and easy to talk to.

Item no.	Item	Coding
31.	The MFSA is accessible (able to be reached)	
5.	The MFSA is approachable (is welcoming and easy to talk to)	
78.	It is <i>difficult</i> to get a meeting with officials at the MFSA	RC
66.	It is difficult to reach the appropriate officials by when needed	RC

Trust: the extent to which operators trust the MFSA.

Item no.	Item	Coding
25.	I trust the MFSA	
12.	I find it hard to trust MFSA staff	RC

Distributive fairness: the extent to which operators perceive the MFSA to use a one-size-fits-all approach and to be overbearing.

Item no.	Item	Coding
34.	The regulator adopts a one-size-fits-all approach to regulation	RC
52.	The regulator adopts a one-size-fits-all approach to supervision	RC
23.	MFSA decisions are usually fair*	
58.	The MFSA is too heavy-handed in enforcing decisions	RC
36.	The MFSA imposes too many rules and regulations on operators	RC
40.	The MFSA is too rigid in the way it applies the law	RC
	*Adapted from Tankebe, 2013	

Effectiveness in performing their functions: the extent to which operators perceive the MFSA to be carrying out its roles.

Item no.	Item	Coding
35.	The MFSA has sufficient powers to carry out its functions effectively	
61.	The MFSA is doing a good job investigating regulatory violations	
8.	The MFSA tries to tell operators how to run its business	RC
57.	The MFSA ensures that the right entities/people are authorised	
18.	The MFSA <i>does not</i> conduct enough surprise inspections and	RC

	compliance visits	
63.	The MFSA is doing a good job supervising operators	
69.	The MFSA ensures high standards of conduct from operators	
50.	The MFSA is not doing enough to protect consumers	RC
73.	The regulator is doing a good job protecting Malta's reputation as a financial services centre	
77.	The MFSA is doing a good job at regulating the industry	

Competence: the extent to which operators perceive the MFSA to be staffed by individuals who have the skill, knowledge, experience and training to be able to carry out its functions.

Item no.	Item	Coding
29.	MFSA staff know how to carry out their roles well	
70.	MFSA Staff are <i>not</i> well versed in the relevant regulations	RC
1.	Staff at the MFSA have the necessary regulatory experience to discharge their functions	
76.	Staff at the MFSA lack the necessary industry experience to discharge their functions	RC
39.	MFSA staff have the technical (specialized) knowledge to discharge their functions	
85.	Staff at the MFSA appear properly trained for their roles	
48.	The MFSA adopts a tick-the-box approach when carrying out its functions	RC
3.	The MFSA prioritizes substance over form	

Empathetic Understanding: the extent to which operators perceive the MFSA staff to understand the business of the operator, its needs and the industry.

Item no.	Item	Coding
2.	MFSA staff do not understand the business of the operator	RC
26.	Staff at the MFSA do not understand the business needs of the operator	RC
43.	The regulator understands the economic landscape in which the operator operates	
81.	MFSA staff understand the industry in which the operator works	
49.	Generally, the MFSA understands how the operator views things*	
17.	Staff at the MFSA understand how the law applies in practice	
55.	The regulator understands the challenges faced by the operator	
38.	Staff at the MFSA do not care about the impact of their decisions on the operator	RC
60.	The MFSA is not doing enough to understand the choices that operators have to make*	RC
84.	The MFSA does not listen to what operators have to say*	RC
	*Items adapted from Barrett-Lennard (2015)	

Responsiveness: the extent to which operators perceive that the MFSA is fast acting, efficient and adaptable.

Item no.	Item	Coding
68.	The MFSA does not take the needs of operators into account when implementing EU directives	RC
79.	The MFSA is flexible enough to find solutions for the operator	

83.	The MFSA adapts to a changing regulatory environment	
13.	The MFSA acts in a timely manner	
22.	The licensing process is too slow	RC
67.	The MFSA provides timely guidance to operators	
44	The MFSA does not respond quickly to breaches committed by operators	RC

Stand-alone items

Item no.	Item	Coding
14.	The MFSA does not seem to have enough staff to attend to operators	RC
72.	The MFSA suffers from a lack of leadership	RC
47.	I feel that the MFSA trusts the organization I work with	
24.	Operators and the MFSA have different views on what is right or wrong	RC
15.	Staff at the MFSA tend to do the right thing	

Obligation to obey (adapted from Trinkner, Jackson, and Tyler, 2018)

Item no.	Item	Coding
89.	Operators should support MFSA decisions even when the operator disagrees with them	
100.	The operator should do what the MFSA directs even if the operator does not understand or agree with the reasons	
102.	I do what the MFSA directs even if I don't like how they treat me	
97.	All regulations should be strictly obeyed	
93.	Some regulations are made to be broken	RC
87.	Sometimes doing the right thing means breaking the applicable regulations	RC
91.	There are times when it is ok to ignore the applicable regulations	RC
105.	Sometimes the operator has to bend the law for things to come out right.	RC

Motivational postures (items adapted from Braithwaite, 2013)

Commitment: the extent to which operators comply willingly

Item no.	Item	Coding
92.	Complying with the applicable regulations is the right thing to do	
88.	The operator's policy is to comply with the applicable regulations with good will	
95.	I resent complying with the MFSA's directives	RC
103.	I find myself being less open and transparent with the MFSA	RC

Capitulation: the extent to which operators comply but do so unwillingly

Item no.	Item	Coding
94.	I comply with the applicable regulation even though I feel no moral obligation to do so	

86.	No matter how cooperative or uncooperative the MFSA is, operator's policy is always to be cooperative with the MFSA	
-----	---	--

Resistance: the extent to which operators feel a need to take a stand against the MFSA

Item no.	Item	Coding	
96.	As an industry, we need more operators willing to take a stand against the MFSA		
101.	It is important not to let the MFSA push the operator around		

Disengagement: the extent to which operators feel that they are losing their connection with the norm and values of the regulatory systems and continue operating without paying heed to the MFSA's demands

Item no.	Item	Coding	
98.	I don't think there is much the MFSA can do if the operator doesn't want to comply		
106.	If the MFSA gets tough with the operator, the operator can become uncooperative with the MFSA		

Game playing: the extent to which operators find legal ways to beat the system or complying with the letter of the law but not its spirit

Item no.	Item	Coding	
104.	I enjoy talking to other industry players about loopholes in the applicable regulations		
90.	I always seek to find the grey area in the applicable regulations		
99.	I enjoy the challenge of finding ways round the applicable regulations		
107.	I do things to give the appearance of compliance		

Deterrence

Item no.	Item	Coding	
108.	If an operator breaches the applicable regulations, what is the likelihood that the MFSA will discover the breach?*		
109.	If the MFSA sanctions an operator for breaching the applicable regulations, how big a problem would it be for an operator?***		
	*item adapted from Murphy, Bradford and Jackson (2016) ***item adapted from Grasmick and Bursik (1990)		

Appendix 5. Quantitative stage – Email sent to Participants and Basic Legitimation Demands Survey

Email sent to participants inviting them to participate in survey

Dear [insert name of participant],

I hope this email finds you well.

[I believe [insert name of referee] spoke to you about my research project earlier today]⁴³

I am reading for a Ph.D. at the Institute of Criminology at the University of Cambridge.

The title of my dissertation is “Basic Legitimation Demands in the Maltese Financial Services Sector”. The dissertation addresses the following questions: (i) what are operators’ experiences with the MFSA?; (ii) what do operators expect from the MFSA?; (iii) how do operators respond to a failure to meet those expectations?; and (iv) what is the relationship between the legitimacy of the MFSA and operators’ attitudes towards compliance and cooperation?

To help me explore these questions, you are kindly being invited to take part in a survey on a voluntary basis. Participation in this survey is strictly anonymous and confidential.

To take the survey please click on the link below:

https://cambridge.eu.qualtrics.com/jfe/form/SV_9pfINV6TbOfbn7f

The survey will not take longer than 15 minutes to complete.

No identifying information such as name or email address will be collected.

Thank you for your participation.

Best wishes,

Matthew

⁴³ This phrase was only included in those cases where participants were contacted following an introduction by a referral source.

Basic Legitimation Demands Survey

PARTICIPATION INFORMATION SHEET

Ph.D. Title

Basic Legitimation Demands in the Maltese Financial Services Sector

Purpose of Questionnaire

This questionnaire is designed to measure: (i) the extent to which your expectations of the MFSA are being met; and (ii) your attitudes towards compliance and cooperation. Your completed questionnaire will be combined with those of other participants and aggregate results, not individual responses, will be reported.

Participation

Your participation is VOLUNTARY, and you are free to withdraw your participation at any time without giving any reason.

Anonymity and Confidentiality

The questionnaire is ANONYMOUS. All responses will be kept in STRICT CONFIDENCE and will never be revealed as coming from you. You will never be identified or associated with any of the responses you provide. Your individual responses to the questions in the survey will not be given to anyone at all. The surveys will be stored securely. Access to the data will be restricted to the researcher and to his supervisor (Dr. Justice Tankebe).

Structure of Questionnaire

Part One asks for some background information.

Part Two asks whether your expectations are being met.

Part Three asks about your attitudes towards compliance and cooperation.

Part Four asks about your perceptions on the certainty and severity of punishment.

Part Five contains space to add additional comments.

Additional issues

The survey should take approximately 20 minutes to complete.

If you would like to have anything explained please do not hesitate to contact the researcher. Any questions relating to the research study or to your participation in the survey will be answered by Matthew Muscat ([REDACTED]).

By clicking the button below:

- (i) I confirm that I have read and understood the participant information sheet.
- (ii) I understand that my participation is voluntary and that I am free to withdraw at any time, without giving any reason.

Please note that this survey will be best displayed on a laptop or desktop computer. Some features may be less compatible for use on a mobile device.

- ☐ I consent, begin the study
- ☐ I do not consent, I do not wish to participate

PART 1

This section asks for some demographic information

Q1 The entity which you work with or for is licensed as a: (please tick the category of entity with which you are mainly involved):

- ☐ Credit institution
- ☐ Financial institution
- ☐ Insurance undertaking
- ☐ Investment services undertaking
- ☐ Fund
- ☐ Trustee and Fiduciary
- ☐ Corporate Service Provider
- ☐ Other (please specify) _____

Q2 What is your role, position or title in the licensed entity indicated above? (Please write your answer in the space below)

Q3 How long has your company or organisation been involved in the financial services industry? (Please write your answer in the space below)

Q4 Have you ever been employed with the MFSA? (Please select the appropriate response)

- ☐ Yes
- ☐ No

Q5 How would you describe the size of your company? (Please select the appropriate response)

- ☐ Small
- ☐ Medium
- ☐ Large

Q6 How many times has your company been sanctioned by the MFSA? (Please select the appropriate response)

- ☐ Never
- ☐ Once
- ☐ Twice
- ☐ Three or more times
- ☐ Don't know

Q7 If your company has ever been sanctioned, what was the most recent sanction the company received? (Please choose one)

- ☐ Administrative fine
- ☐ Reprimand
- ☐ Warning
- ☐ Restriction of license
- ☐ Suspension of license
- ☐ Appointment of competent person
- ☐ Other _____

Q8 In the last 12 months with which unit within the MFSA did you have the most contact with? (Please choose one)

- ☐ Authorisation Unit
- ☐ Banking Supervision Unit
- ☐ Securities and Markets Supervision Unit
- ☐ Insurance and Pensions Supervision Unit
- ☐ Conduct Supervision Unit
- ☐ Enforcement Unit
- ☐ Other _____

PART 2

This part asks whether your expectations from the MFSA are being satisfied. For each statement, please select the response that best describes how you feel.

Q1 Staff at the MFSA have the necessary regulatory experience to discharge their functions

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q2 MFSA staff do not understand the business of the operator

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q3 The MFSA prioritizes substance over form

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q4 The MFSA is controlled by politicians

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q5 The MFSA is approachable (i.e., is welcoming and easy to talk to)

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q6 The MFSA does not provide clear guidance to guide operators

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q7 The MFSA clearly explains what it expects from operators

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q8 The MFSA tries to tell the operator how to run its business

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q9 When the MFSA deals with operators it always acts according to law

- ☐ Strongly agree
- ☐ Agree

- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q10 I find the attitude of MFSA staff to be hostile

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q11 The MFSA's decision-making process is open and transparent

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q12 I find it hard to trust MFSA staff

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q13 The MFSA acts in a timely manner

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q14 The MFSA does not seem to have enough staff to attend to operators

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q15 Staff at the MFSA tend to do the right thing

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q16 The MFSA and its staff act as if they are above the law

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q17 Staff at the MFSA understand how the law applies in practice

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q18 The MFSA does not conduct enough surprise inspections and compliance visits

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree

- ☐ Disagree
- ☐ Strongly disagree

Q19 In dealing with operators, the MFSA exercises its powers in good faith

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q20 The MFSA does not keep an open mind when dealing with operators

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q21 Staff at the MFSA are honest

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q22 The licensing process is too slow

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q23 MFSA decisions are usually fair

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q24 Operators and the MFSA have different views on what is right or wrong

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q25 I trust the MFSA

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q26 Staff at the MFSA do not understand the business needs of the operator

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q27 An ongoing dialogue exists between the MFSA and operators

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree

- ☐ Disagree
- ☐ Strongly disagree

Q28 Things only go your way if you know the right people at the MFSA

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q29 MFSA staff know how to carry out their roles well

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q30 The MFSA sometimes abuses its powers

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q31 The MFSA is accessible (i.e., able to be reached)

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q32 There is a lot of inconsistency in the actions of the MFSA

- ☐ Strongly agree

- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q33 The MFSA is transparent and open about its rules and policies

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q34 The MFSA adopts a one-size-fits-all approach to regulation

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q35 The MFSA has sufficient powers to carry out its functions effectively

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q36 The MFSA imposes too many rules and regulations on operators

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree

☐ Strongly disagree

Q37 The MFSA treats operators fairly

☐ Strongly agree

☐ Agree

☐ Neither agree nor disagree

☐ Disagree

☐ Strongly disagree

Q38 Staff at the MFSA do not care about the impact of their decisions on the operator

☐ Strongly agree

☐ Agree

☐ Neither agree nor disagree

☐ Disagree

☐ Strongly disagree

Q39 MFSA staff have the technical (specialized) knowledge to discharge their functions

☐ Strongly agree

☐ Agree

☐ Neither agree nor disagree

☐ Disagree

☐ Strongly disagree

Q40 The MFSA is too rigid in the way it applies the law

☐ Strongly agree

☐ Agree

☐ Neither agree nor disagree

☐ Disagree

☐ Strongly disagree

Q41 The MFSA acts without fear or favour

☐ Strongly agree

- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q42 The MFSA does not treat all operators equally

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q43 The regulator understands the economic landscape in which the operator operates

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q44 The MFSA does not respond quickly enough to breaches committed by operators

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q45 The MFSA and its staff treat operators with respect

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q46 The MFSA does not regularly consult the industry

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q47 I feel that the MFSA trusts the organization I work with

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q48 The MFSA adopts a tick-the-box approach when carrying out its functions

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q49 Generally, the MFSA understands how the operator views things

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q50 The MFSA is not doing enough to protect consumers

- ☐ Strongly agree
- ☐ Agree

- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q51 I feel that the MFSA gives operators appropriate guidance

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q52 The MFSA adopts a one-size-fits-all approach to supervision

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q53 The MFSA uses rules and procedures that are fair to everyone

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q54 There is too much informality in the relationship between the MFSA and operators

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q55 The MFSA understands the challenges faced by the operator

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q56 The MFSA does not apply the law fairly

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q57 The MFSA ensures that the right entities/people are licensed

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q58 The MFSA is too heavy-handed in enforcing decisions

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q59 The MFSA helps operators when they have regulatory issues

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree

- ☐ Disagree
- ☐ Strongly disagree

Q60 The MFSA is not doing enough to understand the choices that operators have to make

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q61 The MFSA is doing a good job investigating regulatory violations

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q62 The MFSA does not provide opportunities for unfair decisions to be corrected

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q63 The MFSA is doing a good job supervising operators

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q64 The MFSA is too close to some operators

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q65 Staff at the MFSA are willing to support the operator

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q66 It is difficult to reach the appropriate officials when needed

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q67 The MFSA provides timely guidance to operators

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q68 The MFSA does not take the needs of operators into account when implementing EU directives

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree

- ☐ Disagree
- ☐ Strongly disagree

Q69 The MFSA ensures high standards of conduct from operators

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q70 Staff at the MFSA are not well versed in the relevant regulations

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q71 The MFSA clearly explains its reasons when giving decisions

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q72 The MFSA suffers from a lack of leadership

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q73 The MFSA is doing a good job protecting Malta's reputation as a financial services centre

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q74 Rules published by the MFSA are not always clear

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q75 The operator is allowed sufficient opportunity to explain its position before the MFSA takes a decision

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q76 Staff at the MFSA lack the necessary industry experience to discharge their functions

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q77 The MFSA is doing a good job at regulating the industry

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree

- ☐ Disagree
- ☐ Strongly disagree

Q78 It is difficult to get a meeting with officials at the MFSA

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q79 The MFSA is flexible enough to find solutions for the operator

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q80 The MFSA has a lot of unwritten rules and policies

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q81 MFSA staff understand the industry in which the operator works

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q82 The MFSA arbitrarily creates rules and policies

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q83 The MFSA adapts to a changing regulatory environment

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q84 The MFSA does not listen to what operators have to say

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q85 Staff at the MFSA appear properly trained for their roles

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

PART 3

This part asks about your attitudes towards compliance and cooperation. For each statement, please select the response that best describes how you feel.

Q86 No matter how cooperative or uncooperative the MFSA is, the operator's policy is always to be cooperative with the MFSA

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q87 Sometimes doing the right thing means breaking the applicable regulations

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q88 The operator's policy is to comply with the applicable regulations with good will

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q89 Operators should support MFSA decisions even when the operator disagrees with them

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree

☐ Strongly disagree

Q90 I always seek to find the grey area in the applicable regulations

☐ Strongly agree

☐ Agree

☐ Neither agree nor disagree

☐ Disagree

☐ Strongly disagree

Q91 There are times when it is ok to ignore the applicable regulations

☐ Strongly agree

☐ Agree

☐ Neither agree nor disagree

☐ Disagree

☐ Strongly disagree

Q92 Complying with the applicable regulations is the right thing to do

☐ Strongly agree

☐ Agree

☐ Neither agree nor disagree

☐ Disagree

☐ Strongly disagree

Q93 Some regulations are made to be broken

☐ Strongly agree

☐ Agree

☐ Neither agree nor disagree

☐ Disagree

☐ Strongly disagree

Q94 I comply with the applicable regulation even though I feel no moral obligation to do so

☐ Strongly agree

- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q95 I resent complying with the MFSA's directives

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q96 As an industry, we need more operators willing to take a stand against the MFSA

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q97 All regulations should be strictly obeyed

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q98 I don't think there is much the MFSA can do if the operator doesn't want to comply

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree

☐ Strongly disagree

Q99 I enjoy the challenge of finding ways round the applicable regulations

☐ Strongly agree

☐ Agree

☐ Neither agree nor disagree

☐ Disagree

☐ Strongly disagree

Q100 The operator should do what the MFSA directs even if the operator does not understand or agree with the reasons

☐ Strongly agree

☐ Agree

☐ Neither agree nor disagree

☐ Disagree

☐ Strongly disagree

Q101 It is important not to let the MFSA push the operator around

☐ Strongly agree

☐ Agree

☐ Neither agree nor disagree

☐ Disagree

☐ Strongly disagree

Q102 I do what the MFSA directs even if I don't like how they treat me

☐ Strongly agree

☐ Agree

☐ Neither agree nor disagree

☐ Disagree

☐ Strongly disagree

Q103 I find myself being less open and transparent with the MFSA

☐ Strongly agree

- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q104 I enjoy talking to other industry players about loopholes in the applicable regulations

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q105 Sometimes the operator has to bend the law for things to come out right.

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q106 If the MFSA gets tough with the operator, the operator can become uncooperative with the MFSA

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree

Q107 I do things to give the appearance of compliance

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree

☐ Strongly disagree

PART 4

This part asks about your perceptions concerning the certainty and severity of punishment.

Q108 If an operator breaches the applicable regulations, what is the likelihood that the MFSA will discover the breach?

- ☐ Very likely
- ☐ Likely
- ☐ Not likely
- ☐ Not likely at all

Q109 If the MFSA sanctions an operator for breaching the applicable regulations, how big a problem would it be for an operator?

- ☐ A very big problem
- ☐ A big problem
- ☐ A little problem
- ☐ Hardly any problem
- ☐ No problem at all

PART 5

Q140 In the space below please include any additional comments you wish to make in regard to the MFSA

Q141 Please take a moment or two to check that you have answered all the relevant questions. If you are satisfied with your responses click the "Submit Survey" button.

Appendix 6. Motivational Postures scales, Obligation to Obey scale and Key Correlations

Table 1. Original Motivational Postures Scales

Motivational Postures	Cronbach's Alpha (α)
Commitment	0.582
Complying with the applicable regulations is the right thing to do	
The operator's policy is to comply with the applicable regulations with good will	
I resent complying with the MFSA's directives*	
I find myself being less open and transparent with the MFSA*	
Capitulation	-0.052
I comply with the applicable regulation even though I feel no moral obligation to do so	
No matter how cooperative or uncooperative the MFSA is, the operator's policy is always to be cooperative with the MFSA	
Resistance	0.484
As an industry, we need more operators willing to take a stand against the MFSA	
It is important not to let the MFSA push the operator around	
Disengagement	-0.283
I don't think there is much the MFSA can do if the operator doesn't want to comply	
If the MFSA gets tough with the operator, the operator can become uncooperative with the MFSA	
Game-Playing	0.654
I enjoy talking to other industry players about loopholes in the applicable regulations	
I always seek to find the grey area in the applicable regulations	
I enjoy the challenge of finding ways round the applicable regulations	
I do things to give the appearance of compliance	
* Items were reverse coded	

Table 2. Revised Motivational Postures Scales

Motivational Postures	Cronbach's Alpha (α)	Improved Cronbach's Alpha (α)
Commitment/capitulation	0.381	0.635
Complying with the applicable regulations is the right thing to do		
The operator's policy is to comply with the applicable regulations with good will		
I resent complying with the MFSA's directives		
I find myself being less open and transparent with the MFSA		
I comply with the applicable regulation even though I feel no moral obligation to do so (item deleted)		
No matter how cooperative or uncooperative the MFSA is, the		

operator's policy is always to be cooperative with the MFSA		
Resistance/disengagement	0.023	0.418
As an industry, we need more operators willing to take a stand against the MFSA		
It is important not to let the MFSA push the operator around		
I don't think there is much the MFSA can do if the operator doesn't want to comply		
If the MFSA gets tough with the operator, the operator can become uncooperative with the MFSA (item deleted)		

Table 3. Obligation to Obey Scale

Items	Cronbach's Alpha (α) 0.728
Operators should support MFSA decisions even when the operator disagrees with them	
The operator should do what the MFSA directs even if the operator does not understand or agree with the reasons	
I do what the MFSA directs even if I don't like how they treat me	
All regulations should be strictly obeyed	
Some regulations are made to be broken*	
Sometimes doing the right thing means breaking the applicable regulations*	
There are times when it is ok to ignore the applicable regulations*	
Sometimes the operator has to bend the law for things to come out right*	
* Items were reverse coded	

Table 4. Correlations between key research variables

	1	2	3	4	5	6	7	8	9
1. Legitimacy aggregate	1								
2. Rule of law	0.949**	1							
3. Distributive Fairness	0.703**	0.480**	1						
4. Responsiveness	0.554**	0.397**	0.341**	1					
5. Likelihood of apprehension	0.182**	0.189**	0.043	0.186**	1				
6. Severity of punishment	0.004	-0.003	0.048	-0.046	0.411**	1			
7. Obligation to obey	0.237**	0.221**	0.184**	0.119	0.079	0.039	1		
8. Positive attitudes to compliance	0.340**	0.387**	0.186**	-0.007	0.010	0.089	0.438**	1	
9. Game-playing	-0.102	-0.095	-0.118	0.018	0.037	0.010	-0.401**	-0.261**	1

Appendix 7. Summary statistics for items

Item	Mean**	Standard Deviation
A. Rule of Law (Lawfulness, trust, procedural fairness and competence)		
In dealing with operators, the MFSA exercises its powers in good faith (Q19)	3.75	0.784
I find the attitude of MFSA staff to be hostile (Q10) *	3.73	0.816
The MFSA and its staff act as if they are above the law (Q16)*	3.56	0.916
The MFSA sometimes abuses its powers (Q30)*	3.29	0.944
MFSA decisions are usually fair (Q23) (adapted from Tankebe (2013)	3.51	0.802
I trust the MFSA (Q25)	3.61	0.837
The MFSA treats operators fairly (Q37)	3.41	0.776
I find it hard to trust MFSA staff (Q12) *	3.68	0.833
The MFSA does not apply the law fairly (Q56)*	3.48	0.821
When the MFSA deals with operators it always acts according to law (Q9)	3.77	0.802
Things only go your way if you know the right people at the MFSA (Q28) *	3.08	0.944
MFSA staff know how to carry out their roles well (Q29)	3.36	0.733
Staff at the MFSA understand how the law applies in practice (Q17)	3.17	0.897
B. Distributive Fairness		
The regulator adopts a one-size-fits-all approach to regulation (Q34) *	2.60	0.976
The regulator adopts a one-size-fits-all approach to supervision (Q52) *	2.65	0.934
The MFSA is too rigid in the way it applies the law (Q40) *	2.56	0.896
The MFSA adopts a tick-the-box approach when carrying out its functions (Q48) *	2.23	0.954
C. Responsiveness		
The licensing process is too slow (Q22) *	1.97	0.888
The MFSA acts in a timely manner	2.38	1.024

(Q13)		
D. Obligation to Obey (adapted from Trinker, Jackson, and Tyler (2018))		
Operators should support MFSA decisions even when the operator disagrees with them (Q89)	3.29	0.913
The operator should do what the MFSA directs even if the operator does not understand or agree with the reasons (Q100)	3.18	0.965
I do what the MFSA directs even if I don't like how they treat me (Q102)	3.46	0.905
All regulations should be strictly obeyed (Q97)	3.83	0.766
Some regulations are made to be broken* (Q93)	4.22	0.802
Sometimes doing the right thing means breaking the applicable regulations* (Q87)	3.57	0.941
There are times when it is ok to ignore the applicable regulations* (Q91)	4.06	0.724
Sometimes the operator has to bend the law for things to come out right* (Q105)	3.66	0.824
E. Positives Attitudes to Compliance (adapted from Braithwaite, 2009; 2013)		
Complying with the applicable regulations is the right thing to do (Q92)	4.28	0.613
The operator's policy is to comply with the applicable regulations with good will (Q88)	4.30	0.542
I resent complying with the MFSA's directives* (Q95)	3.97	0.846
I find myself being less open and transparent with the MFSA* (Q103)	3.69	0.906
No matter how cooperative or uncooperative the MFSA is, operator's policy is always to be cooperative with the MFSA (Q86)	4.30	0.566
F. Deterrence (not summated into a scale)		
1. If an operator breaches the applicable regulations, what is the likelihood that the MFSA will discover the breach? (adapted from Murphy, Bradford and Jackson,	2.72	0.639

2016)

2. If the MFSA sanctions an operator 4.13

0.699

for breaching the applicable
regulations, how big a problem
would it be for an operator? (adapted
from Grasmick and Bursik (1990
A, B, C, D, and E response set
ranging from: 1- strongly disagree to
5 – strongly agree.

F1 response set ranging from: 1-not
likely at all to 4-very likely

F2 response set ranging from: 1-no
problem at all to 5-a very big
problem

* items were reverse coded

** $N = 214 - 225$